

EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

WILLIAM FRANKLIN, MD, TOTH
ENTERPRISES II, P.A. d/b/a
VICTORY MEDICAL & FAMILY CARE,
DIANOSTIC GESTALT, LLC,
SCHARON SHEPARD, NP, KATHERINE
KELLER, DO, NATHAN PEKAR, MD,
SARITA PRAJAPATI, MD, SHAWN
AGENBROAD-ELANDER, NP, and
BRITTANI ADAMS, NP,

Plaintiffs,

v.

JEAN-PAUL FORAGE, LEWIS NICHOLS,
CLAY ELLIS, and LN PROFESSIONAL
MANAGEMENT LLC, d/b/a MEDICAL
MANAGEMENT PROFESSIONAL, and
ALLIED LAB SOLUTIONS
MANAGEMENT, LLC,

Defendants.

Case No.

1:23-CV-00542-
RP

DEPOSITION OF

LAWRENCE D. PALMER

DATE: Wednesday, March 6, 2024

TIME: 10:07 a.m.

LOCATION: Griffith & Griffith

514 East Houston Avenue

Crockett, TX 75835

REPORTED BY: Cynthia P. Smith

JOB NO.: 6496801

A P P E A R A N C E S

ON BEHALF OF PLAINTIFFS WILLIAM FRANKLIN, MD, TOTH
ENTERPRISES II, P.A. D/B/A VICTORY MEDICAL & FAMILY
CARE, DIANOSTIC GESTALT, LLC, SCHARON SHEPARD, NP,
KATHERINE KELLER, DO, NATHAN PEKAR, MD, SARITA
PRAJAPATI, MD, SHAWN AGENBROAD-ELANDER, NP, and
BRITTANI ADAMS, NP:

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A P P E A R A N C E S (Cont'd)

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NICHOLS, LN PROFESSIONAL MANAGEMENT LLC, D/B/A MEDICAL
MANAGEMENT PROFESSIONAL, AND ALLIED LAB SOLUTIONS
MANAGEMENT, LLC:

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A P P E A R A N C E S (Cont'd)

ALSO PRESENT:

Rob Curnock, Videographer

Lewis Nichols, Defendant

Clay Ellis, Defendant

Lindsey Reyes, Paralegal, Germer Beaman & Brown

PLLC (by videoconference)

I N D E X

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NO.

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P R O C E E D I N G S

THE VIDEOGRAPHER: We're now on the record. The time is 10:07 a.m., March 6, 2024. This is the deposition of Larry Palmer.

THE REPORTER: Good morning. My name is Cynthia Smith, and I'm the reporter assigned by Veritext to take the record of this proceeding. We are now on the record. The time is 10:08 a.m.

This is the deposition of Larry Palmer taken in the matter of Toth Enterprises II, P.A., et al. vs. Jean-Pierre Forage, et al. on Wednesday, March 6, 2024. I am a notary authorized to take acknowledgments and administer oaths in Texas.

Additionally, absent an objection on the record before the witness is sworn, all parties and the witness understand and agree that any certified transcript produced from the recordings of this proceeding:

- is intended for all uses permitted under applicable procedural and evidentiary rules and laws in the same manner as a deposition recorded by stenographic means; and
- shall constitute written stipulation of such.

1 At this time will everyone in
2 attendance please identify yourselves for the record.

3 MR. CHESTER: Ray Chester for all the
4 defendants except Clay Ellis.

5 MR. HOBBS: And Jeff Hobbs for the
6 defendant Clay Ellis.

7 MR. MILLER: Paul Miller and Sarah
8 Shumate-Connor for the plaintiffs.

9 THE REPORTER: Paul Miller. Got it.
10 Okay.

11 MS. ZERNER: Good morning. This is
12 Bridget Zerner who is also for the plaintiffs. And I
13 just wanted to let everyone know it's possible that
14 John Markham, my partner representing the plaintiffs
15 as well, may log on. Just in case the court reporter
16 sees that. Thank you all.

17 THE REPORTER: Okay. Mr. Palmer, will
18 you please raise your right hand, sir?
19 WHEREUPON,

20 LAWRENCE D. PALMER,
21 called as a witness and having been first duly sworn
22 to tell the truth, the whole truth, and nothing but
23 the truth, was examined and testified as follows:

24 THE REPORTER: All right. Counsel, you
25 may proceed.

1 MR. CHESTER: Thank you.

2 EXAMINATION

3 BY MR. CHESTER:

4 Q Mr. Palmer, give us your full name, please.

5 A Lawrence Douglas Palmer.

6 Q Have you ever given any sworn testimony
7 before?

8 A No, this is a first.

9 Q All right. Do you understand the legal
10 significance of the oath you just took?

11 A Yes.

12 Q You understand that your testimony today is
13 sworn and is under penalty or perjury in the state of
14 Texas?

15 A Yes.

16 Q And you know what perjury is; right?

17 A Yes.

18 Q All right. What is your work address,
19 please, sir?

20 A 513 West Chestnut, Grapeland, one word,
21 75844.

22 Q 75844?

23 A 844.

24 Q And what is your home address, please, sir?

25 A Same.

1 Q Same. And what do you do for a living?

2 A Tax and bookkeeping. Tax work and
3 bookkeeping.

4 Q You prepare tax returns?

5 A I do.

6 Q All right. Are you represented by counsel
7 here today?

8 A No.

9 Q You had the opportunity to engage counsel
10 and chose not to; correct?

11 A Yeah. Correct.

12 Q All right. Are you self-employed?

13 A Yes.

14 Q Do you have a business name?

15 A Palmer Tax and Bookkeeping.

16 Q What is your education, please, sir?

17 A I've got a BBA and -- and about three-
18 fourths of a master's.

19 Q Where's your BBA from?

20 A Southwest Texas.

21 Q I believe they call it Texas State now.

22 A They call -- I call it Southwest Texas.

23 Q Got you. Is that in accounting?

24 A Yeah.

25 Q And your partial MBA work, is that in

1 accounting as well?

2 A Yeah.

3 Q Could you give us a summary of your work
4 history over the years after graduating college?

5 A It's been a while. Let's see. Revenue
6 agent for the IRS for, I don't know, nine years, I --
7 yeah, something like that. I forget exactly how long.
8 And then part of Chevron's -- first job was with
9 Chevron when they merged with Gulf. And ended up in
10 East Bay near San Francisco and worked for them for a
11 little while. And then I came back here and the IRS
12 and -- geez. Just a number of accounting jobs since
13 then. Been self-employed for some time, about 30
14 years.

15 Q How long?

16 A About 30.

17 Q Thirty years?

18 A Yeah.

19 Q What does exactly a revenue agent for the
20 IRS do?

21 A The revenue agent, my job is I audited high
22 net worth individuals and partnerships and
23 corporations. Oh, I was a field agent.

24 Q During your time as a field agent, did you
25 become familiar with various federal statutes and

1 regulations governing the IRS and taxpayers?

2 A Yeah.

3 Q And currently, you're a tax return preparer?

4 A Correct.

5 Q And how long have you -- you have a PTIN?

6 A Yes.

7 Q How long have you had a PTIN?

8 A Probably about 30 years -- for a long time.

9 Q Okay. Is this still current?

10 A Yeah.

11 Q What do you have to do to get a PTIN?

12 A Oh, you have to get fingerprinted and --
13 gosh. I think they do -- I guess they do a background
14 check. I'm not -- I'm not real sure. It's not --
15 it's not particularly hard to get. Yeah.

16 Q Are you also certified as an enrolled
17 preparer by the IRS?

18 A I think I still got a current enrolled
19 agent.

20 Q That's what I meant, enrolled agent. Yeah.

21 A Yeah, by virtue of being a revenue agent,
22 basically.

23 Q And what do you have to do to become an
24 enrolled agent by the IRS?

25 A Well, when I -- when I got enrolled, my time

1 at IRS qualified me to do it.

2 Q Okay. What would a private account have to
3 do, just in general?

4 A I don't know. I don't know.

5 Q Take some training and what not?

6 A I think -- I don't know. I honestly don't
7 know.

8 Q Okay. All right. Have you taken any
9 continuing education in the field of accounting since
10 college?

11 A Not in a long time. Yeah.

12 Q Okay. But you did at some point?

13 A Yeah, initially. Yeah.

14 Q And what types of subject matters were
15 covered in that continuing education?

16 A Oh, just tax law changes from year to year,
17 that kind of thing.

18 Q Are you a CPA?

19 A No.

20 Q Have you ever been a CPA?

21 A No.

22 Q Have you ever taken any steps to become one?

23 A Yes.

24 Q What steps did you take?

25 A Well, back when I was going to do it --

1 let's see here. The exam was five parts. And you had
2 to take at least two at one time. And I took the
3 first two parts and passed them. And then -- then I
4 had a child and just never pursued it. I -- I've also
5 worked with small businesses and just, you know -- I
6 wouldn't -- I'm not a corporate guy, you know. I'm
7 not a law -- an accounting firm kind of guy. So just
8 the need for it just kind of diminished over the
9 years.

10 Q Okay. But in terms of your qualifications
11 to become a CPA, you have a four-year degree in
12 accounting; right?

13 A You have to -- I think, at that time, you
14 had to have at least 30 hours. And I had, I think, 33
15 or 36.

16 Q Okay. And then do you have to do some
17 additional postgraduate work in accounting to become a
18 CPA?

19 A I don't think so.

20 Q All right. And you have to work as an
21 accountant under a CPA; right?

22 A Yeah. Yeah, there was some -- like, yeah,
23 you had to have a -- a year, maybe two, I think, at
24 that time. Again, keep in mind this was 1985. Yeah.

25 Q Okay. And you had that requirement

1 satisfied?

2 A Yeah.

3 Q Okay. And so you took two parts of the five
4 part test; right?

5 A Mm-hmm. Yes.

6 Q You have to answer -- yeah, because "uh-huh"
7 and "uh-unh" look the same.

8 A Yeah.

9 Q And did you pass those two parts?

10 A I did.

11 Q Okay. And did you do any studying for the
12 other parts?

13 A I started to. And just -- like I say, just
14 lost interest. I had a child. By the time I even
15 thought about it again, it's, "Eh, screw it."

16 Q Yeah. Did you become familiar during your
17 studies and your test-taking with the ethical rules
18 that apply to CPAs?

19 A Yeah. You know, a part of the undergraduate
20 is a B law course, and we go through that.

21 Q Right. Are you familiar with the code of
22 professional conduct for CPAs?

23 A Not really.

24 Q Okay. You didn't study that when you were
25 taking the test?

1 A No.

2 Q Do you try and hold yourself out to the same
3 ethical standards as a CPA?

4 A Hard to say. I don't know what those are.

5 Q Okay. Well, we'll explore those in a bit.
6 You wouldn't knowingly violate any ethical standards
7 that apply to CPAs. Would you?

8 A No.

9 Q Okay. Now I'm sure you're familiar with the
10 civil and criminal penalties under federal law for
11 filing a false tax return as a PTIN holder; correct?

12 A Vaguely.

13 Q You're aware that there are civil and
14 criminal penalties for a tax return preparer knowingly
15 filing a false return; right?

16 A Yes.

17 Q Okay. You're just not exactly sure what the
18 sentence or the penalties would be?

19 A Right. Yeah.

20 Q Now what years did you work for LN
21 Professionals?

22 A 2015 or '16 through 2018.

23 Q Okay. I've got paperwork indicating that
24 you left LN in the early part of October 2018. Does
25 that sound right to you?

1 A Yeah, it's about right.

2 Q Okay. And while you were working at LN,
3 they had a DBA of MMP; right?

4 A Yes.

5 Q Okay. And you know what a DBA is; right?

6 A Yes.

7 Q It means it's the same company. They just
8 use a different name; right?

9 A Yes.

10 Q Okay. So you realized that LN Professionals
11 and MMP are the same company; right?

12 A Yeah.

13 Q And you knew that all along; right?

14 A Yeah.

15 Q Okay. And you prepared the tax returns for
16 LN Professionals for tax years 2016 and 2017; correct?

17 A Yes.

18 MR. CHESTER: And all these exhibits
19 that I'm going to be marking today, Madame Court
20 Reporter, are subject to a protective order entered in
21 this case, and for it to be considered confidential.

22 THE REPORTER: Yes, sir.

23 BY MR. CHESTER:

24 Q Let me show you Exhibit 1.

25 //

1 (Exhibit 1 was marked for
2 identification.)

3 A Okay.

4 Q And ask you if you recognize this as the LN
5 Professional Management tax return for the tax year
6 2016?

7 A Yes.

8 Q And at the bottom under preparer, that is
9 you; correct?

10 A Correct.

11 Q We redacted your PTIN and also the
12 employer's ID. But other than that, this looks
13 complete; right?

14 A Looks to be. Yeah.

15 Q Yeah. Now you were an employee of LN at
16 this time?

17 A Yes.

18 Q Why did you use the term "Palmer Tax and
19 Bookkeeping" with the Lexington address?

20 A Oh, that's -- I did it just because that's
21 what I do my tax returns under.

22 Q Okay. Even though you were an employee of
23 LN?

24 A Yeah.

25 Q All right. Do you recognize Exhibit 2 as a

1 copy of the 2017 tax return for LN?

2 (Exhibit 2 was marked for
3 identification.)

4 A Yes.

5 Q And you also prepared that tax return;
6 correct?

7 A Correct.

8 Q And so the civil and criminal penalties for
9 filing a false tax return that we were referring to
10 earlier, those would apply to these tax returns if
11 they turned out to be false, since you were the
12 preparer; correct?

13 A Yes.

14 Q Okay. And these tax returns show who the
15 owners of the company are. Don't they?

16 A Yes, all the partners. Right.

17 Q Right. And that's customary; right?

18 A Yes.

19 Q Yeah. Now did you also prepare the K-1s for
20 the owners of LN -- do you mind if I call LN
21 Professionals just LN?

22 A That's fine. I don't care.

23 Q Did you also prepare the K-1s?

24 A Yeah, they're -- they're included as part of
25 the return. Sure.

1 Q Okay. So for each of the years that you
2 worked at LN, you prepared the company tax returns and
3 also the K-1s for the owners; right?

4 A Yes.

5 Q And did you also prepare the W-2s for the
6 employees?

7 A Yes.

8 Q Now were MJ Cortez and Lewis Nichols of LN
9 during the years you were there?

10 A MJ Cortez was a partner. And let me look at
11 the K-1. Let's see. I don't know who was Torque
12 Wrench --

13 Q Dire Straits would've been Lewis's?

14 A Yes. Yeah.

15 Q Yeah. So Lewis Nichols's wholly owned LLC,
16 Dire Straits, was an owner, correct, of LN?

17 A Yes. Yes.

18 Q And you prepared K-1s for each of the
19 owners?

20 A Yes.

21 Q Right. And then you also prepared Lewis
22 Nichols's personal tax returns. Didn't you?

23 A Mm-hmm.

24 Q For many years; right?

25 A Yeah. For a number of years. Yeah.

1 Q Including the years you worked at LN; right?

2 A Yes.

3 Q And you also prepared MJ Cortez's personal
4 tax returns. Did you not?

5 A Yes.

6 Q And you also prepared Clay Ellis's tax
7 returns; right?

8 A Yes.

9 Q And Clay Ellis was employee of LN; true?

10 A Yes.

11 Q And you would've prepared Clay Ellis's W-2s;
12 right?

13 A Yes.

14 Q Now do you remember at one point
15 volunteering to do the tax returns for all of the
16 employees at LN?

17 A Yeah.

18 Q Did you end up doing that or?

19 A I don't think I did any of them. I -- but
20 I'm not a hundred percent sure.

21 Q Okay. And then even after you left LN in
22 October of 2018, you defended Lewis Nichols in an IRS
23 audit of his personal tax returns; right?

24 A Correct.

25 Q And he paid you \$5,000 for that in 2019;

1 right?

2 A Yeah. That sounds right.

3 Q Is Exhibit 3 a copy of the check where
4 Mr. Nichols paid you to defend him in the audit in
5 2019?

6 (Exhibit 3 was marked for
7 identification.)

8 A Yes.

9 Q Okay. And did that audit last several
10 months throughout most of 2019?

11 A It took some time. I -- I forget just how
12 long it took. Couple months anyway.

13 Q Okay. And were there one or more meetings
14 with the auditor at your office?

15 A At Lewis's office.

16 Q Okay. Were there also at least one meeting
17 at your office, keeping in mind that you had left LN
18 at this point?

19 A Yeah. No. I think I just at Lewis's.
20 Yeah.

21 Q Okay. But you were representing him; right?

22 A Yes.

23 Q And that sort of confirms that you're an
24 enrolled agent; right? Because you have to be an
25 enrolled agent to represent someone in an audit. Is

1 that right?

2 A Yes. That's correct.

3 Q Okay. Then in 2018 right before you left,
4 you sent all the necessary tax information to the new
5 accountant that was going to take over, Holly
6 Sparkman. Do you remember that?

7 A I remember the name. I -- yeah. I -- I
8 gave her whatever she asked for.

9 Q That would've been customary; right?

10 A Yeah.

11 Q And do you recognize Exhibit 4 as an email
12 string that shows you transmitting various tax
13 information on LN and the owners to the new CPA, Holly
14 Sparkman?

15 (Exhibit 4 was marked for
16 identification.)

17 A Yes.

18 Q Okay. Now did you sign any false tax
19 returns during your time at LN?

20 A No.

21 Q Okay. You didn't sign any false tax returns
22 for LN or for Clay Ellis personally or for MJ Cortez
23 or for Lewis Nichols; right?

24 A Right. Correct.

25 Q Because having worked for the IRS, you

1 realize if you'd signed as a return preparer a false
2 tax return, you could be subject to civil and criminal
3 federal penalties; right?

4 A Sure. Right.

5 Q And you would not have done that; right?

6 A No.

7 Q Did you fill out any false K-1s during your
8 time at LN?

9 A No.

10 Q Did you fill out any false W-2s during your
11 time at LN?

12 A No.

13 Q Did you make any false statements during
14 2019 during the course of you defending Lewis Nichols
15 in his IRS audit?

16 A No.

17 Q Now do you remember a gentleman named Dylan
18 Parks?

19 A Yes.

20 Q He came in a few months before you left and
21 joined the accounting department at LN; right?

22 A Right.

23 Q And worked with you in that regard?

24 A Mm-hmm. Yeah, I trained him up.

25 Q Okay. And it looks like from the emails

1 I've seen he joined in about May of 2018. You left in
2 October. So that would've been about a five-month
3 overlap. Does that sound about right?

4 A Yeah. That sounds about right.

5 Q Okay. And y'all were the only two
6 accountants there?

7 A Yeah.

8 Q Okay. So y'all worked closely?

9 A Yeah.

10 Q And you were training him?

11 A I was training him. He -- actually, he's
12 training me on -- he didn't -- he didn't know a lot of
13 accounting. He had schooling, but no experience. But
14 he was a wiz on spreadsheets. He did really good. So
15 he actually showed me a lot of things on spreadsheets.

16 Q Okay. So you were showing him the company
17 business and general accounting --

18 A And -- and he showed me a faster way to do
19 it. Yeah.

20 Q And then he was an Excel guy?

21 A Yes.

22 Q All right.

23 THE WITNESS: Y'all got a --

24 THE REPORTER: Yeah. And just --

25 you're good. Just allow him to finish the question

1 and then you respond, please.

2 THE WITNESS: Oh, go ahead.

3 THE REPORTER: Thank you.

4 BY MR. CHESTER:

5 Q And you and Mr. Parks became friends.

6 Didn't you?

7 A Not particularly.

8 Q Okay. Did you have him over to your house?

9 A Was he ever at my house? I don't think so.

10 Q You don't remember him coming over the day
11 after you left the employment of LN and coming over
12 and having a drink with you at your house?

13 A No, but I guess it could've happened.

14 Q Okay. You're not saying it didn't happen.
15 You're just saying you don't remember; right?

16 A Correct.

17 Q All right. Now you never said anything to
18 Mr. Parks about any fraudulent accounting or false tax
19 returns being committed at LN Professionals. Did you?

20 A No.

21 Q And he never said anything about that to you
22 either. Did he?

23 A No.

24 MR. CHESTER: Here you go, Paul.

25 MR. MILLER: Thank you.

1 BY MR. CHESTER:

2 Q Now do you recognize your signature on the
3 third page of Exhibit 5?

4 (Exhibit 5 was marked for
5 identification.)

6 A I do.

7 Q And also, it's on page 4, too; right?

8 A Yes.

9 Q And you signed this under penalty of
10 perjury; right?

11 A Yes.

12 Q You were aware of that when you signed this?

13 A Yes.

14 Q Meaning that if it was false and knowingly
15 false, you could be charged with the criminal offense
16 of perjury; right?

17 A Right.

18 Q Okay. Now did Attorney Kelly Dawson prepare
19 this declaration?

20 A Well, he called me. I -- I couldn't even
21 tell you when. Apparently, he had a beef with Clay,
22 something about defamation or libel. I'm not sure
23 what the distinction is. Then asked me for a -- a
24 write-up about pretty much right -- just this first
25 part. Okay. So I sent -- I wrote it up and sent to

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1 him.

2 And -- and then, like, a year later, long
3 time -- a lot of time had passed. He said, "Here,
4 I -- I made some changes, just, you know, sign and
5 send it back to me," which is what I did. And I
6 really didn't hardly read it, because, well, just I
7 didn't care. So yeah. And so I signed this and sent
8 it back. Yeah.

9 Q Okay. But --

10 A But not -- but let me add.

11 Q Go ahead.

12 A But, well, since -- since this came back, I
13 actually read it. And honestly, all I -- part that I
14 wrote is, like, the first page, page and -- about page
15 and a half. A lot of this -- definitely should've
16 read it, but I didn't -- is -- is him reworking it,
17 really.

18 Yeah. Certainly, this is not part of what I
19 wrote to him. And I've reached out to him since
20 this -- and I reached out to him. I think I sent him
21 an email. And I sent him a text requesting my
22 original draft. And, you know, haven't heard a thing
23 back.

24 Q Okay. So problem is you signed this entire
25 document --

1 A Yeah, I got it.

2 Q -- under penalty of perjury.

3 A Correct.

4 Q So you understand the situation that we're
5 in here today?

6 A Yes.

7 Q And are you telling me that some of this
8 information didn't come from you?

9 A Yes.

10 Q And which parts didn't come from you?

11 A Well, page -- let's see. I never had
12 anything about on page 2, paragraph -- third one down.
13 I never -- I never said, "Clay Ellis skimmed."
14 Because to best of my knowledge, he didn't. Yeah.
15 And paragraph five, the one, "It was routing for Clay
16 Ellis to manufacture fraudulent statements." That's
17 not me.

18 MR. HOBBS: I'm sorry, sir. Which one
19 was that for the record?

20 THE WITNESS: One, two, three, four,
21 five.

22 BY MR. CHESTER:

23 Q Second page.

24 A Oh, yeah. I'm sorry. Page 2.

25 Q Starts with, "It was routine for Clay Ellis

1 to manufacture." That's the paragraph you're
2 referring to; right?

3 A Correct.

4 Q That did not come from you; right?

5 A No.

6 Q It's not even true. Is it?

7 A No.

8 Q Okay. What else?

9 A Oh, the books were clean.

10 Q I'm sorry?

11 A The books were clean. You know, they
12 were -- were what they were.

13 Q The LN books were clean; right?

14 A Correct.

15 Q Nobody was skimming. Were they?

16 A No.

17 Q You would've known about it because you did
18 everybody's tax returns; right?

19 A You would think so. Yeah.

20 Q And you wouldn't have filed false tax
21 returns, obviously; right?

22 A No. Nope.

23 Q Okay. All right. What other parts are not
24 true?

25 A Paragraph below that.

1 Q "As part of my duties"?

2 A Correct.

3 Q That paragraph's not true as well?

4 A Correct.

5 Q Okay. What else?

6 A Page 3, paragraph -- the first full
7 paragraph.

8 Q That starts, "Even though Clay Ellis was not
9 properly accounting"? That one?

10 A Correct. Yeah.

11 Q That's not true?

12 A Correct.

13 Q Okay. What else?

14 A Well, next paragraph down. The first part
15 is -- is all correct. He directed me to write checks
16 to the members of Allied Lab and the different
17 partners.

18 Q Right. Because that was part of the
19 business; right?

20 A Yeah. And MJ Cortez was one of the
21 partners. I'm not sure about a corporation located in
22 Colorado. But, well, no. One of the partners was
23 based in Colorado. I forget the guy's name. Their --
24 their director or accountant or something, he would
25 fly down from Colorado. I forget which partner that

1 was, so.

2 Q Let's look --

3 A Let's look at the partners, see -- yeah.

4 Maybe I can -- might remember. No, I saw those names.

5 I don't even recognize those names anymore, outside of

6 Dire Straits and -- I think -- I forget what MJ's was

7 as well. It wasn't Torque Wrench. Do any of these

8 have a Colorado --

9 Q I don't know.

10 A No. I -- I didn't see it. Torque Wrench

11 was one of the original partners. They got bought

12 out. That -- I forget his name. One of the -- one of

13 the partners or companies had their offices, like,

14 right up the street from us. And I would hand deliver

15 a check to them each month. And I -- but I -- I can't

16 remember the name.

17 Q Well, let's go back here to the declaration

18 where we left off.

19 A All right.

20 Q I believe we were on page 3. Oh, yeah. We

21 were in the second full paragraph that begins, "Clay

22 Ellis specifically directed me to write checks." You

23 recall that's where we left off?

24 A Yeah. Yeah. And I think -- I think that's

25 correct. And one of them was located in -- in

1 Colorado.

2 Q But were these illegal skimming checks that
3 you sent to Colorado?

4 A No, this was checks in the ordinary course
5 of business. And, well, the one located in Colorado
6 was the one I would deliver down the street. Yeah.

7 Q Okay. All right. But that wasn't skimming.
8 That wasn't fraudulent. That was just payments in the
9 normal course of business; right?

10 A Correct.

11 MR. MILLER: Objection. Leading.

12 BY MR. CHESTER:

13 Q Okay. All right. And what else is not
14 true? What about the next paragraph?

15 A Well, there wasn't any inconsistent or
16 arbitrary accounting.

17 Q What about fraudulent accounting? Was there
18 any of that going on when you were the accountant
19 there?

20 A No. No, I wouldn't -- don't think any of
21 that was mine.

22 Q This whole paragraph on page 3 that begins,
23 "Clay Ellis always explained away inconsistent and
24 arbitrary accounting," none of those are your words
25 and you don't --

1 A I don't think so. I --

2 Q You don't stand by any of those words;
3 right?

4 A I don't stand by that at all.

5 Q Okay. What about the next paragraph? What
6 suspicious activity is that referring to? Do you have
7 any idea?

8 A No. I don't -- I don't stand by that
9 either.

10 Q Okay. There was no suspicious activity;
11 right?

12 A No. Just once a month after all the
13 accounting's done and the spreadsheets were complete,
14 you know, it just -- it all flows through to the
15 bottom. You write checks to the five partners or --
16 yeah, five partners, I guess it is. Yeah.

17 Q Okay. All right. Let's go back to page 1.
18 So first paragraph just says who you are and you're
19 over 21. I guess that part's true; right?

20 A I'm guessing so.

21 Q You're a professional accountant. Were you
22 in Travis County at the time you signed this?

23 A I was in -- well, I lived -- no, I was up in
24 Houston County. Yeah.

25 Q Okay. September 6, 2022?

1 A Yeah. Yeah.

2 Q Okay. Did you travel to Travis County when
3 you signed this?

4 A No.

5 Q Okay. So even where it says, "Executed by
6 Larry Palmer in Travis County, Austin," that's not
7 even true; right?

8 A That's correct. Yeah.

9 Q It's correct that it's not true; right?

10 A It's correct that it's not true. Yeah.

11 Q Thank you. Okay. And so in case this does
12 go to a district attorney, you were located where when
13 you --

14 A Houston County.

15 Q Houston County.

16 A Grapeland. Where I am now. Yeah.

17 Q Okay. All right. Let's go back to page 1,
18 second paragraph. What about the last sentence of the
19 second paragraph where it says all these different
20 legal entities Clay Ellis was the purported owner.
21 You knew Clay Ellis wasn't the owner; right?

22 MR. MILLER: Objection. Leading.

23 THE WITNESS: I can't tell you right
24 now who owned -- I mean, let's see -- Dire Straits. I
25 can't tell you now who owned these others. I don't

1 know.

2 BY MR. CHESTER:

3 Q Okay. But let's talk about LN Professional.
4 Clay Ellis was not an owner of that; right?

5 A Correct.

6 Q You knew that because you filled out his tax
7 returns; right?

8 A Correct. Yeah.

9 MR. MILLER: Objection. Leading.

10 BY MR. CHESTER:

11 Q And he was an employee of that; right?

12 A He was an employee.

13 Q And you W-2'ed him; right?

14 A Yes.

15 Q Okay. So when it says, "Different legal
16 entities, all of which Clay Ellis was the purported
17 owner," since "all of which" would've included LN
18 Professional, that's not a true statement. Is it?

19 MR. MILLER: Objection. Leading.

20 THE WITNESS: No. He wasn't -- he
21 wasn't a partner. He wasn't an owner of the company.

22 BY MR. CHESTER:

23 Q Right. And he wasn't a purported owner
24 either. Was he? Of LN Professional?

25 A No.

1 Q Okay. All right. And then going to the
2 next paragraph, the third paragraph on page 1, the one
3 that begins, "Although Clay Ellis directed," you refer
4 to Clay Ellis's longtime friend MJ Cortez as his -- it
5 says "con conspirator." I think that's supposed to be
6 co-conspirator. "To further Clay Ellis's scheme to
7 defraud the Allied company shareholders."

8 A And that is -- that is not my wording at
9 all. No. No. It was -- it's, like, the same reason
10 Franklin. The way Lewis explained it to me was,
11 because Clay owned a -- the clinic in Corpus, and the
12 same thing applied to Franklin, because he owned
13 Victory. There had to be -- for them to -- for the
14 doctor to order samples -- for him to order samples
15 and then get paid, that was a conflict of interest for
16 the medical practice. So you had to, you know, back
17 off a step to get rid of that conflict of interest, is
18 the way it was explained to me.

19 MR. MILLER: Objection. Non-
20 responsive.

21 BY MR. CHESTER:

22 Q Okay. Well, let me get specific about this
23 declaration that you signed under penalty of perjury.
24 That's why I have to ask you these questions; all
25 right?

1 A I got it.

2 Q But if they're not your words, you tell us;
3 okay?

4 A Yeah.

5 Q First of all, did Clay Ellis have a scheme
6 to defraud the Allied company shareholders to your
7 knowledge?

8 A No.

9 Q Okay. Secondly, was MJ Cortez a co-
10 conspirator in this scheme that didn't exist?

11 A No, he was -- he was a partner.

12 Q Okay. And what about the next sentence,
13 that this was done by Clay Ellis paying MJ Cortez 10
14 percent of MMP revenue to remain silent about the
15 fraudulent accounting. Is that true?

16 A No. No. The payment would be made directly
17 to MJ -- his partner's -- you know, MJTX [sic],
18 whatever it was. And then MJ would then write a check
19 to Clay for -- if I remember, it was for 90 percent.
20 They'd take 10.

21 Q Okay. But was there anything fraudulent
22 about that?

23 A No.

24 Q It was all reported on the tax returns and?

25 A Everything's reported.

1 Q Okay. And he wasn't paying -- so Clay Ellis
2 paying 10 percent to MJ Cortez for him to remain
3 silent about fraudulent accounting, that's just --

4 A Those weren't -- that wasn't my wording.

5 Q That's just not true. Is it?

6 A No. No. That's just -- that's just the way
7 the money flowed.

8 Q Not only is it not your wording, but you
9 were there, and you were the accountant, and you can
10 affirmatively testify that is not true; right?

11 MR. MILLER: Objection. Leading.

12 THE WITNESS: Well, correct. Yeah.
13 Actually, my -- my conversations with Kelly Dawson had
14 to do with a libel or whatever lawsuit. It had
15 nothing to do with any of this, so.

16 MR. MILLER: Objection. Non-
17 responsive.

18 BY MR. CHESTER:

19 Q Okay. Let's go to the second page. And I
20 think we have almost covered every paragraph. But I
21 don't remember if we talked about the first full
22 paragraph on page 2 that begins, "Clay Ellis then
23 directed." Tell me if those are your words and if
24 they're accurate.

25 A This doesn't make sense to me.

1 Q He's not the most eloquent author. Is he?

2 A Well, just this doesn't --

3 Q Can we leave it that the second full
4 paragraph on page 2 beginning, "Clay Ellis then
5 directed," that whole paragraph doesn't make sense to
6 you?

7 A It doesn't now. It doesn't -- this doesn't
8 match my memory of the money flow. But I -- yeah,
9 it's likely it's been -- it's been -- some time has
10 passed.

11 Q Let's look at the next paragraph. It
12 starts, "For various justifications." Then you say,
13 "It was common that Clay Ellis would skim off the top
14 from funds that belonged to Allied companies." That's
15 not true. Is it?

16 A That's not true. Yeah, we covered that
17 earlier. But yeah. No, that is not true.

18 Q Okay. And then in the next paragraph, the
19 one that begins, "Any amounts LN Professionals ever
20 paid." And the last sentence you say, or Kelly Dawson
21 said, "As time went on, I became increasingly aware
22 that the accounting Clay Ellis was directing me to do
23 was not legal." Is that accurate?

24 MR. MILLER: Objection. Form.

25 THE WITNESS: No.

1 BY MR. CHESTER:

2 Q Okay. "And it looked like there was fraud
3 being committed against the shareholders of the Allied
4 company shareholders." Is that accurate?

5 A Again, no.

6 Q Okay. So a fair summary of this,
7 Mr. Palmer -- correct me if I'm wrong -- but the first
8 paragraph identifying that you're over 21 and the
9 second paragraph identifying that you're an accountant
10 and when you worked at LN, those are accurate. But
11 the rest of this declaration is not accurate and not
12 your words. Is that a fair summary?

13 A Well, bits -- bits and pieces of them are my
14 words, with a lot of other stuff tacked on.

15 Q Right. But there was no fraudulent
16 accounting; right?

17 MR. MILLER: Objection. Leading.

18 THE WITNESS: Yeah. Correct.

19 BY MR. CHESTER:

20 Q No skimming; right?

21 A No skimming.

22 MR. MILLER: Objection.

23 BY MR. CHESTER:

24 Q By Clay Ellis or anyone else; right?

25 MR. MILLER: Objection. Leading.

1 THE WITNESS: Oh, not -- not at my
2 level, no. And --

3 BY MR. CHESTER:

4 Q Okay. Well, I mean, you would've known
5 about it; right?

6 A Well, if something was done at the -- I
7 mean, I didn't do Allied's accounting. And I didn't
8 do other accounting. But -- but no. This level, no.
9 It was all straightforward.

10 Q But you actually sent the statements and the
11 checks to the Allied entities. Didn't you?

12 A Mm-hmm.

13 Q And they were accurate; right?

14 MR. MILLER: Objection. Leading.

15 THE WITNESS: Yes. To the best of my
16 knowledge, yeah. Yeah.

17 BY MR. CHESTER:

18 Q And you would've known; right? Because
19 you --

20 A Yeah. I was -- yeah.

21 Q You were the accountant; right?

22 A Right.

23 Q Okay.

24 MR. MILLER: Same objection.

25 THE WITNESS: Oh, let him finish?

1 Okay.

2 BY MR. CHESTER:

3 Q Now are you aware that Mr. Dawson has had
4 his law license suspended by the state bar for
5 unethical actions in this litigation?

6 A No.

7 Q He didn't tell you that when you emailed him
8 last week?

9 A No. Like -- like I said before, I've
10 emailed him and texted him, and I haven't gotten any
11 responses. No.

12 Q All right. Did Mr. Dawson pay you any money
13 to sign this?

14 A No.

15 Q Has anybody paid you any money since you
16 left LN related to this lawsuit, meaning Dr. Franklin,
17 for example?

18 A No.

19 Q Any of his companies?

20 A No.

21 Q Any of his lawyers?

22 A No.

23 Q John Markham?

24 A No.

25 Q Kelly Dawson?

1 A No.

2 Q Lewis paid you \$5,000 to help him in the
3 audit; right?

4 A For the audit. Yeah. Right.

5 MR. MILLER: Objection. Leading.

6 BY MR. CHESTER:

7 Q No one else had paid you any money?

8 A Correct.

9 Q And no one paid you to sign this inaccurate
10 declaration under penalty of perjury?

11 A Correct.

12 Q Do you wish you hadn't signed it now?

13 A Absolutely.

14 Q I bet so.

15 A 'Cause I didn't even take the time to read
16 it.

17 MR. MILLER: Objection. Non-
18 responsive.

19 BY MR. CHESTER:

20 Q Exhibit 6 is a copy of the subpoena that you
21 were served with that compelled your appearance here
22 today; correct?

23 (Exhibit 6 was marked for
24 identification.)

25 A Yes.

1 Q And would you flip with me to Exhibit A,
2 page 2. And I want to ask you -- first, let me just
3 ask you generally, have you brought any documents with
4 you today?

5 A No.

6 Q Did you review any documents to prepare for
7 the deposition?

8 A No.

9 Q What about your declaration? Did you review
10 that?

11 A Yeah, I did -- yeah -- review that. And
12 it's like, "Oh, shit."

13 Q Okay. Because didn't you ask Mr. Hobbs to
14 send you a copy of it?

15 A Yes. Yes.

16 Q And he did send you a copy; right?

17 A He did.

18 Q And you read it?

19 A Yes. That's -- yeah.

20 Q And did you see that you had signed it under
21 penalty of perjury?

22 A Yes, I did.

23 Q And what was your reaction?

24 A Oh, shit.

25 Q All right. Do you have any -- now you said

1 you texted and emailed Kelly Dawson. Did you say last
2 week or?

3 A Yeah. I -- if I look it up. Last -- yeah,
4 I think it was last week. Maybe the week before.

5 Q You didn't happen to bring printed copies of
6 those. Did you?

7 A No.

8 Q Do you mind showing us on your phone?

9 A I'm -- I'm looking for the text now. Well,
10 not here. No results. Man, I swear I texted him.
11 But it's not here.

12 Q Do you have any older texts with Kelly
13 Dawson?

14 A Nothing came up when I did a search.

15 Q Because I'm giving you fair warning I'm
16 going to show you some in a minute.

17 A Okay.

18 Q Did you delete your old texts with Kelly
19 Dawson?

20 A Quite possibly. I deleted everything --
21 Kelly, texts from Clay, from Lewis. Just, you know,
22 that time was done.

23 Q Okay. Not for any improper purposes. Just
24 to clear out your phone?

25 MS. SHUMATE-CONNOR: Objection.

1 THE WITNESS: Clean -- yeah, clear out
2 my phone.

3 BY MR. CHESTER:

4 Q All right. What about the email that you
5 mentioned to Mr. Dawson. Do you have that?

6 A I don't have it.

7 Q Okay. Luckily, I do.

8 A Okay. Good.

9 Q Now do you have any documents from your time
10 at LN Professional?

11 A No. Well, outside of tax returns. But no.
12 No. Company stuff? No.

13 Q Did you keep the tax returns or?

14 A Yeah. Yeah.

15 Q Okay. That's something a tax return
16 preparer should do; right?

17 MR. MILLER: Objection. Leading.

18 THE WITNESS: Correct.

19 BY MR. CHESTER:

20 Q Okay. And so these are the documents you
21 were asked to bring today if you had them. And now
22 I'm looking at 4, 5, and 6.

23 A Okay.

24 Q And the gist of these document requests are,
25 if you have any documents backing up the stuff in the

1 declaration, we'd like to see them. But since you've
2 already told me there was no skimming and there was no
3 fraudulent accounting, then I assume you don't have
4 any documents showing that there was skimming or
5 fraudulent accounting; right?

6 A That's correct.

7 MR. MILLER: Objection. Leading.

8 BY MR. CHESTER:

9 Q Because as far as you know, no such
10 documents exist; right?

11 A Correct.

12 MR. MILLER: Same objection.

13 BY MR. CHESTER:

14 Q All right. And would the same be true of 7
15 and 8? You don't have any documents supporting those
16 quotes from your declaration because those quotes are
17 not true?

18 A I'm sorry. I've got the federal tax return
19 documents. Is that --

20 Q Right. I was just asking about 7 and 8.

21 A Oh, 7 and 8?

22 Q Right.

23 A Correct.

24 Q Okay. You do have the federal tax returns,
25 as is customary for a tax return preparer; right?

1 A Correct.

2 Q All communications with law enforcement or
3 any other party regarding any illegal or improper
4 action you claim to have observed at LN Professional.
5 I'm assuming there are none?

6 A There are none. There -- there was no
7 communication.

8 Q Because there was no illegal or improper
9 actions that you observed; right?

10 A Correct.

11 MR. MILLER: Objection. Leading.

12 BY MR. CHESTER:

13 Q Okay. And you don't have a CPA license. Do
14 you have any other professional licenses?

15 A No.

16 Q Okay. All right. We've been going about an
17 hour. Do you need a break or you want to keep going?

18 A No. I'm -- I'm ready to get this done as
19 quickly as possible.

20 Q Okay. All right. Let's do it.

21 A Got things to do.

22 Q Me too.

23 MR. CHESTER: Here you go, Paul.

24 MR. MILLER: Oh, thank you.

25 //

1 BY MR. CHESTER:

2 Q Do you recognize Exhibit 7 as some text
3 messages between you and Kelly Dawson?

4 (Exhibit 7 was marked for
5 identification.)

6 A Yup.

7 Q And the first one is dated September 5th of
8 '22; right?

9 A Yup.

10 Q That would've been the day before you signed
11 the declaration; right?

12 A Yup.

13 Q "Hey, Larry. Don't want to bother. Just
14 checking if you had any thoughts on the declaration.
15 Thanks." That's what Kelly Dawson wrote to you;
16 right?

17 A Yes.

18 Q And you said: "It's on the way. One typo.
19 Page 1"; right?

20 A Mm-hmm.

21 Q And let me show you something.

22 A Yeah, it's the one I circled.

23 Q Okay. That was the circle. So you did read
24 it enough to be able to circle a typo on page 1;
25 right?

1 A Yeah. Yes.

2 Q Okay. All right. Then he says, "Thank
3 you." And then we jump to August 8, '23, "Any news on
4 the subpoena?" That's what you wrote. What was that
5 about?

6 A I'd been subpoenaed to do this earlier.
7 And -- and he -- he said he was going to get that
8 quashed. And -- and it was getting close to that
9 subpoena date. So I texted him, "Have any news on
10 that?"

11 Q Mr. Dawson told you that he was going to
12 quash the federal subpoena issued in this case?

13 MR. MILLER: Objection. Leading.
14 Objection. Form.

15 THE WITNESS: Yes. Yeah.
16 BY MR. CHESTER:

17 Q Okay. He didn't mention anything about his
18 state bar disciplinary proceedings ongoing and his
19 pending suspension of his bar license?

20 MR. MILLER: Objection. Form.

21 THE WITNESS: No.
22 BY MR. CHESTER:

23 Q That didn't come up?

24 A No.

25 Q Would you have been interested to know that,

1 if the guy that drafted the declaration that you
2 signed under penalty of perjury is in trouble with the
3 state bar for unethical activities in this case?

4 MR. MILLER: Objection. Form.

5 THE WITNESS: Yeah. Like I say, I
6 didn't even read -- read through the first subpoena
7 about who the case -- I thought -- again, what my --
8 my conversations with Kelly had to do with the -- with
9 the libel thing. It had nothing to do with, you know,
10 skimming money or anything like that.

11 MR. MILLER: Objection. Non-
12 responsive.

13 BY MR. CHESTER:

14 Q Okay. Let's go back to the first page,
15 please. September 5, '22, you and Mr. Dawson are
16 texting each other. You understood he was an
17 attorney; right?

18 A Yes.

19 Q And who did you think he was representing as
20 of September 5th of '22?

21 A I thought it was the thing between him and
22 Clay.

23 Q Okay. Now you were aware that Mr. Dawson
24 had previously represented LN Professionals; right?

25 A Yes.

1 MR. MILLER: Objection. Leading.

2 THE WITNESS: Yeah. I -- I'd provided
3 him with some documents. And yeah -- or not.

4 MR. MILLER: Objection. Non-
5 responsive.

6 BY MR. CHESTER:

7 Q Because he would come to the office when you
8 worked there; right?

9 A He'd come -- yeah, a couple of times, I
10 think. Yeah. That had to do -- he was trying to help
11 LN -- we'd started having billing -- or getting paid
12 problems with Blue Cross Blue Shield. He was trying
13 to -- if I remember right, that -- that's what it was
14 about. Yeah.

15 MR. MILLER: Objection. Non-
16 responsive.

17 BY MR. CHESTER:

18 Q But the point is, Mr. Dawson was
19 representing LN as their lawyer; right?

20 A Yes. Right. Yeah.

21 MR. MILLER: Objection. Leading.

22 BY MR. CHESTER:

23 Q With all the duties that accompany that;
24 right?

25 MR. MILLER: Objection. Form.

1 Leading.

2 THE WITNESS: Yeah. I assume so. You
3 know, Lewis or Clay would say: "Hey, this guy's
4 coming in. You give him what he wants." Okay. Yeah.

5 MR. MILLER: Objection. Non-
6 responsive.

7 BY MR. CHESTER:

8 Q Okay. And then did you know if that
9 representation of LN by Mr. Dawson had been terminated
10 as of September 5th of '22?

11 A I was -- yeah. No, he wasn't -- he -- none
12 of this had anything to do with him working for LN at
13 all. Is that -- is that what you're asking?

14 Q No. I'm asking, you know, when someone
15 hires a lawyer, sometimes there's an engagement
16 letter. Sometimes they just shake hands, they start
17 paying them. And then at some point, the engagement
18 ends and the lawyer no longer represents the client.
19 You with me so far?

20 A Yeah. Yeah.

21 Q Okay. And I'm asking you, do you know if
22 Mr. Dawson's representation of LN had ended as of
23 September 5th, or you just didn't know one way or the
24 other?

25 A I -- I assumed it did.

1 Q Okay. Did he say anything about it, who he
2 represented?

3 A No. No.

4 Q Okay. Now were you aware that, as of
5 September 5th of '22, Mr. Dawson was representing the
6 plaintiffs in this case, Dr. Franklin and his bunch?

7 A No.

8 MR. MILLER: Objection. Leading.
9 Objection. Form.

10 BY MR. CHESTER:

11 Q He didn't tell you that?

12 A No.

13 Q Were you aware that, as of September 5th of
14 '22, Mr. Dawson was also representing Knox County
15 Hospital?

16 A No.

17 Q And the three of those groups were all suing
18 each other. Did he tell you any of that?

19 A No.

20 MR. MILLER: Objection. Form.

21 THE WITNESS: No.

22 BY MR. CHESTER:

23 Q I know you're not a lawyer, but does that
24 strike you as a potential ethical conflict for a
25 lawyer to be representing all three sides?

1 THE REPORTER: Leave it on the table.
2 You can just leave it on the table.

3 THE WITNESS: Okay. It's okay here?

4 THE REPORTER: I can --

5 THE WITNESS: All right.

6 MR. MILLER: Objection. Form.

7 BY MR. CHESTER:

8 Q Let me start that over for you.

9 THE WITNESS: Okay.

10 THE REPORTER: Yes.

11 THE WITNESS: Go ahead. I missed half
12 of that.

13 BY MR. CHESTER:

14 Q I'm not asking for a legal opinion. But
15 just as a layperson, a non-lawyer, does it strike you
16 as an ethical if Mr. Dawson was representing all three
17 sides in a three-party fight with litigation going on?

18 MR. MILLER: Objection. Form.

19 THE WITNESS: It seems like you'd have
20 some serious conflicts of interest.

21 BY MR. CHESTER:

22 Q Yes, sir. And he didn't tell you any of
23 that?

24 A No.

25 Q Okay. And then did he tell you that he was

1 co-counsel with John Markham, representing
2 Dr. Franklin in litigation in Travis County at this
3 time, September of '22?

4 A No.

5 MR. MILLER: Objection. Form.

6 THE WITNESS: This -- essentially, this
7 is the sum total of our communications. You know, we
8 didn't have in-depth chats.

9 BY MR. CHESTER:

10 Q I understand. But there's ongoing state bar
11 proceedings. There may be criminal enforcement
12 involving Mr. Dawson. So I need to ask you these
13 questions; okay?

14 A Okay. Yeah. Yeah, that's fine.

15 Q All right. So he said he was going to get
16 the federal subpoena quashed; right?

17 A Mm-hmm.

18 MR. MILLER: Objection. Leading.

19 BY MR. CHESTER:

20 Q And you knew it was a federal subpoena
21 because it says so right on the front, United States
22 District Court; right?

23 MR. MILLER: Objection. Form.

24 THE WITNESS: I certainly do now.

25 //

1 BY MR. CHESTER:

2 Q Okay. He says, "I'll call right now and
3 check." Did he call you?

4 A Yeah, he would have. Yeah.

5 Q What'd he say?

6 A He says, "You don't have to worry about it,"
7 basically.

8 Q Don't have to worry about a federal
9 subpoena?

10 A No, meaning he got it quashed.

11 Q Did you ask him to send you any paperwork on
12 that?

13 A No.

14 Q May I suggest that in the future you might
15 want to do that?

16 A Yes.

17 Q Just to cover yourself.

18 A In the -- in the future, when a lawyer calls
19 me up and says something like -- I'm just going to
20 say, "Fuck off," and just hang up the phone.

21 MR. MILLER: Objection. Non-
22 responsive.

23 BY MR. CHESTER:

24 Q All right. Perhaps we'll leave a blank in
25 the deposition for any colorful language. And then,

1 "I'll call you back." You say he told you it was
2 taken care of at that point?

3 A Well -- well, here, "Still waiting to hear
4 back." And so he must've called me after -- anyway.
5 Oh, no, no. This is him to me. Yeah. He --

6 Q He says he's still waiting to hear.

7 A He's still waiting to hear back. Yeah.

8 Q And then you say: "It's the 11th. Time is
9 short." And then he says, "I'll call you this
10 morning."

11 A Then he must've called me.

12 Q And is that when he told you --

13 A Is that -- is that -- yeah, that's when
14 the -- yeah. That's the end of it.

15 Q That's the end of it.

16 A Yeah. Yeah.

17 Q Okay. And do you have any other text
18 messages between you and Mr. Dawson besides what's on
19 Exhibit 7?

20 A I swear -- I swear I thought I just sent one
21 to him, but it's not there.

22 Q Okay. Now tell me a little more about why
23 you thought you were signing this declaration.
24 Something a libel or something. I didn't catch that
25 part.

1 A When he first called me, he said, oh, that
2 Clay was trying to -- was actively trying wreck his
3 career. Something to that effect. And -- and that he
4 had libeled him and wanted to know my -- my relation
5 with -- with Clay. That's pretty much it.

6 Q Okay. Did he say how he had libeled him?

7 A No. No.

8 Q Okay. And so why didn't you say: "That's
9 none of my business. Why are you calling me"?

10 A In retrospect, that would've been the
11 correct answer. But I didn't.

12 MS. SHUMATE-CONNOR: Objection. Non-
13 responsive.

14 BY MR. CHESTER:

15 Q Did you have any personal animosity with
16 Mr. Ellis?

17 A I don't particularly care for him, but that
18 has, you know, nothing to do with this. He didn't
19 particularly care for me.

20 Q Is he the one who let you go at LN?

21 A Mm-hmm.

22 Q Okay.

23 MR. HOBBS: Is that a yes?

24 THE WITNESS: Yes.

25 THE REPORTER: Thank you.

1 BY MR. CHESTER:

2 Q And is that why you signed the declaration
3 under penalty of perjury?

4 A No.

5 Q Because you were mad at Clay Ellis or?

6 A No. I wouldn't -- I -- I completely forgot
7 about -- you know, this is years after the fact. And,
8 you know, life's too short to get caught up in stuff
9 like that.

10 Q Okay. So I've showed you Exhibit 8, which
11 is an email from Kelly Dawson to you on September 2nd
12 of 2022.

13 (Exhibit 8 was marked for
14 identification.)

15 A I'm sorry. Say that again.

16 Q Well, you can look right here. September
17 2nd of 2022, email from Kelly to you; right?

18 A Yes.

19 Q Okay. And just to put it in timeframe,
20 those texts we were looking at were September 5th --

21 A 5th and 6th.

22 Q And then you signed the declaration on
23 September 6th; right?

24 A Mm-hmm.

25 Q So this is four days before you signed the

1 declaration?

2 A Correct.

3 Q Okay. And he says: "Take a look at this
4 and let me know what you think. I went off the notes
5 I took from our call last week. I can call you to go
6 over it if you'd like." And then he's got a draft
7 declaration attached to it. Do you recall getting
8 this email and this draft declaration?

9 A I do now.

10 Q Okay. I'm going to show you some
11 differences in a minute between this draft and the one
12 you actually signed; okay?

13 A Okay.

14 Q But I wanted to ask you, generally, did you
15 have any input into the changes between the draft and
16 the one you signed?

17 A No.

18 Q Okay. So Kelly Dawson completely drafted
19 this first draft on September 2nd all by himself;
20 right?

21 A Well, I had sent him mine prior to this.
22 But this is -- yeah. I -- the answer's yes, I think.

23 Q Okay. Well, what did you send him?

24 A The -- originally, like, you know, whatever
25 year -- year before this, when he called me up saying

1 he had the beef with Clay. I sent him a -- a
2 declaration. It was maybe -- maybe a page, barely
3 over a page long. It wasn't a three-page thing. So
4 does that answer your --

5 Q Yes. Do you have a copy of it?

6 A No. That's why I texted him and said, "Send
7 me a copy of the original -- of the original I sent
8 you," when I read this. And again, I -- I've heard
9 nothing from him.

10 MR. MILLER: Objection. Non-
11 responsive.

12 BY MR. CHESTER:

13 Q And what did that one-page declaration that
14 you sent him say?

15 A Well, pretty much, you know, the -- the
16 stuff at the top and how -- and, you know, how -- you
17 know, my duties included, you know, cutting the checks
18 and this and that, you know.

19 Q But it didn't have anything about fraudulent
20 accounting or false tax returns; did it?

21 MR. MILLER: Objection. Leading.

22 THE WITNESS: No. No. Didn't have
23 anything to do with skimming or anything else. No.

24 MR. MILLER: Non-responsive.

25 //

1 BY MR. CHESTER:

2 Q Mr. Dawson just added all that himself?

3 A Yes.

4 Q Okay. And so he sends you this draft on
5 September 2nd. Did y'all talk between -- well, let me
6 ask you one more thing. He says, "I went off the
7 notes I took from our call last week." He didn't
8 mention anything about the earlier one-page draft that
9 you sent him in this email. Is this refreshing your
10 recollection at all about how --

11 A Not really. No.

12 MR. MILLER: Objection. Leading.

13 BY MR. CHESTER:

14 Q Okay. And you said you sent him this one-
15 page declaration a year earlier?

16 A Well, that's in '22. So I think, yeah. I
17 mean, a lot of time went by from the first time he
18 called me and then this, you know.

19 Q Okay. So in any event, he sends you this
20 draft on September the 2nd. And did you call him back
21 and say, "Hey, a lot of this stuff isn't true"?

22 A No. I didn't even read through it. I -- my
23 interest level in this was so low.

24 Q I'm sorry. What was the last --

25 A My interest level in this was so low.

1 Q All right. How about now? Are you more
2 interested now or?

3 A Yeah.

4 Q Okay. I'm going to hand you Exhibit 9. So
5 now we have an email from Mr. Dawson to you on
6 September 5th; right?

7 (Exhibit 9 was marked for
8 identification.)

9 A Yup. Yes.

10 Q Subject matter is "Revised declaration";
11 right?

12 A Yes. And this looks like it's the final.

13 Q That's what it looks like to me as well.

14 A I mean, just -- just glancing, you know.

15 Q That's what it looks like to me as well.

16 MR. MILLER: Objection. Non-
17 responsive.

18 BY MR. CHESTER:

19 Q And Mr. Dawson says: "Hi, Larry. I made a
20 couple of changes to this. Let me know when you have
21 an opportunity to review it." So did you have any
22 input into the changes between the September 2nd draft
23 that Dawson created and the final draft that Dawson
24 created?

25 A No.

1 Q Okay. HE just made some changes on his own?

2 A Correct.

3 Q And sent it to you, and you didn't even read
4 it, you just signed it?

5 A Yes.

6 Q Did he tell you anything like: "Listen,
7 we're going to be using this in court. It's under
8 penalty of perjury. So you need to make sure every
9 word in this is accurate"? Did he tell you anything
10 like that?

11 A No.

12 Q Did he go through it with you on the phone,
13 like, line by line?

14 A No.

15 Q "Are you sure this is accurate? Are you
16 sure this is accurate?"

17 A No. No, he did not.

18 Q All right. You weren't under the impression
19 that he was representing you at that point. Were you?

20 A No.

21 Q Okay.

22 MR. CHESTER: Here you go, Paul.

23 THE WITNESS: Oh, yeah. There we go.

24 This is the one I sent him, yeah, just the other day.

25 //

1 BY MR. CHESTER:

2 Q This is the email you were referring to
3 earlier?

4 (Exhibit 10 was marked for
5 identification.)

6 A Right. Yeah.

7 Q Okay. February 21st, about two weeks ago,
8 something like that?

9 A Yeah.

10 Q "I need a copy of the original affidavit I
11 sent you before you made the changes." Is that what
12 you said?

13 A Yes.

14 Q And were you referring to the September 2nd
15 draft that Kelly Dawson did --

16 A No.

17 Q -- or were you referring to the one-pager
18 you had sent him several months earlier?

19 A Yes. Yes.

20 Q Okay. Because you didn't retain a copy of
21 it?

22 A I did not. And I've searched.

23 Q Okay. And did you get any response from
24 Mr. Dawson?

25 A No.

1 Q And then did you text him after that?

2 A I thought I did, but it's not on there.

3 Q Okay. Do you have any texts with Kelly
4 Dawson on your phone right now?

5 A No.

6 Q Okay. Why were you wanting a copy of the
7 original affidavit?

8 A Well, after I read this, it started getting
9 real. I said, "What the hell?" I -- you know, I -- I
10 was saying, "What actually did I -- did I actually
11 send you?" 'Cause it didn't look like this.

12 Q Okay. And he never responded?

13 A Correct.

14 MR. CHESTER: All right. How about a
15 ten-minute break?

16 MR. MILLER: That's great.

17 THE WITNESS: Where do these go?

18 MR. CHESTER: You can just leave them
19 right there. We'll give them to the court reporter.

20 THE VIDEOGRAPHER: The time is 11:22,
21 and we are now off the record.

22 (Off the record.)

23 THE VIDEOGRAPHER: We're back on the
24 record. The time is 11:37.

25 //

1 BY MR. CHESTER:

2 Q All right, Mr. Palmer. We're back from a
3 break. Are you ready to continue?

4 A Mm-hmm. Yeah.

5 Q I want to go back to the conversations
6 between you and Kelly Dawson surrounding you signing
7 this declaration, Exhibit 5. I know you said you sent
8 him a one-page declaration that had no allegations of
9 fraudulent accounting or skimming; right?

10 A That's -- that's my memory. Yes.

11 Q Okay. Because there were none when you
12 worked there; right?

13 A Correct.

14 MR. MILLER: Objection. Leading.

15 BY MR. CHESTER:

16 Q So did you convey any information to him at
17 any time in any form that would support some of the
18 things that he wrote in this declaration, such as
19 fraudulent accounting, skimming, anything like that?

20 A No.

21 Q Okay. So he completely just made that up on
22 his own; right?

23 A Yes.

24 Q Okay. Now when he sent you this declaration
25 to sign under oath with things he had made up on his

1 own, did he ask you if you had any documents to back
2 up any of these accusations?

3 A No.

4 Q Did he ask you if there was anyone else at
5 LN that would've been aware of the skimming that he
6 could contact and get an affidavit from?

7 A No.

8 Q For example, if this widespread skimming and
9 fraudulent accounting had been going on, Dylan Parks
10 would've known about it, too; right?

11 MR. MILLER: Objection. Leading.

12 THE WITNESS: No. Not -- no. No.

13 Dylan came down on the tail end, you know. And like I
14 say, he -- he was a wiz on a spreadsheet, but he
15 didn't -- he didn't know very much about -- you know,
16 he knew the basics of keeping books. That's about it.

17 BY MR. CHESTER:

18 Q All right. But did Mr. Dawson ask you for
19 any corroborating or supporting evidence to back up
20 the allegations that he made in this declaration?

21 A No.

22 Q Okay. Now I know you and Mr. Ellis didn't
23 part on the best of terms, but do you consider
24 yourself friendly with Lewis Nichols?

25 A Yeah. Yes. Yeah.

1 Q I mean, he employed you for many years;
2 right?

3 A Yeah. Yes. Yes.

4 Q Okay. And now that you've read this
5 declaration, it says that he was in on all this
6 fraudulent accounting and skimming; right?

7 A Well, that's what it says. That -- that's
8 not -- not what I said.

9 Q Right. Would you care to apologize to
10 Mr. Nichols for having signed --

11 A For having signed it? Sorry. Yes.

12 Q Okay. And as far as the judge or jury that
13 might be hearing this case, what would you say they
14 should do in terms of relying on the truth and
15 veracity of this declaration you signed?

16 A I'd say not to rely on it. Discard it.

17 Q All right. Now have you had any
18 conversations with a gentleman named John Markham?

19 A Yes. Not -- not conversations. I think --
20 I think he was the one who was going to quash the --
21 the first -- the first subpoena, I think.

22 Q Okay. All right. Is that what Dawson told
23 you?

24 A I think so. Yes.

25 Q Okay. Because they were working together;

1 right?

2 MR. MILLER: Objection. Leading.

3 THE WITNESS: I don't know if they were
4 working together or not. He -- you know, I don't know
5 what their relationship was.

6 BY MR. CHESTER:

7 Q And were you interested in getting this
8 subpoena quashed?

9 A Yeah. I wasn't looking forward to doing
10 this, you know.

11 Q Okay. Was Mr. Dawson interested in getting
12 this subpoena quashed?

13 A Yeah, he seemed to be.

14 Q Yeah. We can see why now; right?

15 MR. MILLER: Objection. Leading.

16 THE WITNESS: I -- I don't have an
17 opinion on it. But, you know, I don't know -- I don't
18 know who's zooming who and I don't care, you know.
19 Honestly, it's just --

20 BY MR. CHESTER:

21 Q But have you ever communicated directly with
22 Mr. Markham?

23 A I think he called me when he got it quashed.
24 Or -- or one of them called me.

25 Q Okay. And tell me about that conversation.

1 A Well, can't even tell you for sure if we
2 even had one. But if we did have one, it was probably
3 a 30-second phone call. I mean, I've never had a
4 conversation with him that I recall.

5 Q Okay. Let me show you this Exhibit 11.
6 (Exhibit 11 was marked for
7 identification.)

8 A Yeah, I don't remember this at all. Okay.
9 But it -- this says I got it.

10 Q This is an email from Markham to you dated
11 January 13th of 2023, so about 14 months ago; right?

12 A Correct.

13 Q Do you remember getting it now?

14 A No.

15 Q Okay. He says he's very interested in your
16 affidavit and that it's very helpful. Do you know
17 what he meant by that?

18 A No.

19 Q He said, "We're about to bring a lawsuit
20 against Clay Ellis for skimming." Did you call him up
21 and say: "Wait a minute. Clay Ellis never skimmed
22 anything"?

23 A No.

24 Q Why not?

25 A There was -- you know what? There's

1 honestly a good chance this would've gone to my junk
2 email, which I clear out, you know every day, every
3 other day. And I could've seen that -- I could've
4 seen John Markham and said, "I -- I don't even know
5 who this is." So, you know, I've got so much crap in
6 there. I really don't remember seeing this at all.

7 Q Okay. Well, let me ask you this. If a
8 lawyer called you and said: "We've read your
9 declaration. We're getting ready to file a federal
10 RICO case alleging that Clay Ellis was skimming based
11 solely on your sworn declaration," would you have told
12 them: "Hey, wait a minute. That's not even true. I
13 didn't even draft that."

14 A Had they approached me like that, yeah.
15 But, you know --

16 Q Did Mr. Markham ever ask you for any
17 corroborating evidence?

18 A No.

19 Q Did he ever even ask you if the declaration
20 was true?

21 A No.

22 Q He says, "I'm quite hopeful I can speak with
23 you sometime in the next week." Did you speak with
24 him?

25 A I can't remember speaking to him. Again,

1 I -- he might have been the one that called me about
2 quashing the earlier subpoena. I really don't
3 remember a conversation with him.

4 Q He says, "Because there's some additional
5 information I would like to obtain from you." Do you
6 recall? Does that ring a bell?

7 A Well, I know -- I know he hasn't received
8 any additional information from me.

9 Q Okay. Other than your general message today
10 that the books at LN Professional were squeaky clean
11 and this declaration is not accurate, do you have any
12 other information relevant to this lawsuit?

13 MR. MILLER: Objection. Form.

14 THE WITNESS: No.

15 BY MR. CHESTER:

16 Q Okay. Did you ever do the books for Allied
17 Management or ALS One?

18 A I don't remember. I might have, but I don't
19 remember.

20 Q Okay. But you certainly transmitted the
21 statements and the checks from LN Professional to
22 Allied Management; right?

23 MR. MILLER: Objection. Leading.

24 THE WITNESS: Well, through Clay. I
25 mean, I -- here, you know. Sometimes we -- we would

1 wire checks to him. And I -- and I would drive that
2 one check down the street. I think we mailed checks
3 sometimes. That -- yeah, that was the extent.

4 BY MR. CHESTER:

5 Q But there were also statements explaining --

6 A Yeah, statements -- yes. Yeah.

7 Q How many lab tests and --

8 A Yeah. I turned that -- I turned that over,
9 and -- and Clay would, you know -- would okay it.

10 Yeah.

11 Q Right. But you prepared those statements;
12 right?

13 A Yes.

14 MR. MILLER: Objection. Leading.

15 BY MR. CHESTER:

16 Q And they were accurate; right?

17 MR. MILLER: Same objection.

18 THE WITNESS: Best of my knowledge.

19 BY MR. CHESTER:

20 Q Okay. And you're not aware of any
21 underpayment or defrauding of Allied Management or ALS
22 One by LN Professionals; right?

23 A Correct.

24 MR. MILLER: Objection. Leading.

25 MR. CHESTER: Thank you, sir.

1 I'll pass the witness.

2 MR. HOBBS: Can I borrow it? I got
3 some follow-up.

4 MR. CHESTER: Oh. Yup.

5 EXAMINATION

6 BY MR. HOBBS:

7 Q Mr. Palmer, I've got some brief follow-up.

8 A Okay.

9 Q So I'll try and get you out of here quickly.
10 I believe you confirmed earlier that your employment
11 by LN ceased sometime around October of 2018. Is that
12 right?

13 A Right. Correct.

14 Q And I believe you also confirmed that you
15 were terminated by Clay Ellis from LN?

16 A Correct.

17 Q And do you recall both Clay Ellis and MJ
18 Cortez being with you in person to let you know that
19 you were going to be let go?

20 MR. MILLER: Objection. Leading.

21 THE WITNESS: No. No. That -- that's
22 correct. Yeah.

23 BY MR. HOBBS:

24 Q Okay. Since that time when Mr. Ellis and
25 Mr. Cortez informed you that your employment with LN

1 was terminating, have you had any communications with
2 Clay Ellis in person, text, phone call, any at all?

3 A No.

4 Q So has Clay Ellis made any attempt to
5 persuade you from disavowing the declaration testimony
6 that we've seen marked as Exhibit 5 to your
7 deposition?

8 A I've had no communication with him. So no.

9 Q Similar question for Mr. Nichols. Has Lewis
10 Nichols made any attempt to persuade you to disavow
11 the declaration testimony we've seen marked as Exhibit
12 5?

13 A I've had no communication with Lewis either.
14 So no.

15 Q And then has Mr. Cortez made any attempt to
16 persuade you to disavow your declaration testimony
17 we've seen marked as Exhibit 5?

18 A No. I haven't had any communication with
19 him -- him either.

20 Q And just more broadly, has anybody contacted
21 you to persuade you to disavow any of the declaration
22 testimony that's been marked as Exhibit 5 before any
23 of your testimony here today?

24 A No.

25 MR. HOBBS: That's all I have right

1 now.

2 THE WITNESS: Oh, okay.

3 EXAMINATION

4 BY MR. MILLER:

5 Q Mr. Palmer, it's my turn to ask you some
6 questions.

7 A Yes. Okay.

8 Q You doing okay?

9 A Yup.

10 Q Let me remind you, my name is Paul Miller.
11 I represent the plaintiffs in this case.

12 A Okay.

13 Q You understand I'm on the other side from
14 Mr. Chester and Mr. Hobbs in this case.

15 A All right.

16 Q You understand that?

17 A Yes.

18 Q Has anyone offered to pay you for your time
19 being here today?

20 A Yes.

21 Q Okay. And who's offered to pay you?

22 A I don't even know his name, 'cause I
23 wasn't -- wasn't even going to worry about it.

24 MR. CHESTER: Markham?

25 THE WITNESS: No. Did I speak with you

1 last week?

2 MR. CHESTER: No.

3 THE WITNESS: No. Who'd I speak with?

4 MR. MILLER: Let me object to the
5 sidebar from Chester suggesting that it was Markham.

6 THE WITNESS: There was -- they -- they
7 said, "You can charge out any billable hour for any
8 preparation and time spent doing this." I didn't
9 even -- I didn't save his number in my phone. But
10 let's see. Days back. I don't know. I'm sorry. I
11 don't even know.

12 BY MR. MILLER:

13 Q Well, mister --

14 A But -- well, no, just there was an offer to
15 pay me for my time prepping and -- and my time here
16 today.

17 Q I understand you're looking at the other
18 lawyers, but --

19 A Oh, I'm -- I'm sorry. Yeah. I apologize.

20 Q Let me finish. We don't want to get our
21 court reporter mad at us.

22 THE REPORTER: Thank you.

23 THE WITNESS: I don't either.

24 BY MR. MILLER:

25 Q Your response is, you're looking at the

1 other lawyers who just questioned you, but I'm asking
2 the questions now.

3 A Okay. Very good.

4 Q When we're talking --

5 A Absolutely.

6 Q Thank you. Are you expecting to be paid for
7 your time today?

8 A No, I'm not going to -- I had no intention
9 of -- of submitting a bill to whoever it was.

10 Q I don't want to rehash a bunch of old
11 testimony, but I do have an outline here. So if I'm
12 checking things off, taking some time between
13 questions, it's just so I don't re-plow over them;
14 okay?

15 A Sure.

16 Q My understanding based on your testimony is
17 that you used to work as an employee for LN
18 Professional Management. Is that true?

19 A Yes. MMP, LN Professional. You're right.

20 Q And can we have the agreement that if any of
21 the lawyers today or myself reference LN Professional
22 Management or MMP, we're referring to the same
23 company?

24 A Yes.

25 Q And you were an employee for LN?

1 A Correct. Correct.

2 Q And were you an employee for any other
3 entities at the time that you were an employee for LN?

4 A No.

5 Q Were you ever an employee for Allied Lab
6 Solutions?

7 A No.

8 Q Were you ever an employee for Allied Lab
9 Solutions Management?

10 A No.

11 Q Did you do the books for Allied Lab
12 Solutions or Allied Lab Solutions Management?

13 A I don't remember.

14 Q If you did prepare the books for either of
15 those companies, would it have been through your
16 company, Palmer Bookkeeping?

17 A No.

18 Q Who would you have done it through then,
19 sir?

20 A I would've just done it on the same -- on my
21 workstation at work, so.

22 Q Well, let me stop you there. If you weren't
23 an employee for Allied, in what capacity would you
24 have done the books?

25 A Just because I had to be at that office 40

1 hours, and it was about ten hours of work a week. And
2 so, all right, you know, I would've just done it
3 there. I wouldn't have done just -- I didn't do it as
4 part of my employment. It was just ancillary things
5 that -- that would've been assigned to me.

6 Q Are you telling us that, through your
7 employment with LN, you would have just done the books
8 for Allied just for free?

9 A Yeah. Yes.

10 Q Who would've instructed you, or who did
11 instruct you, as part of your employment with LN, that
12 you would be doing the books for Allied?

13 A That would -- it would've been Clay.

14 Q And when we say, "Doing the books for
15 Allied," does that mean books for Allied Lab Solutions
16 as well as Allied Lab Solutions Management?

17 A I don't know. I don't remember.

18 Q Any documents that come to mind that we
19 could look at to determine whether or not you were
20 involved in the preparation of the books for either of
21 those Allied companies?

22 A Nothing -- I have nothing. Any -- any work
23 I would've done for them would've been done on my
24 workstation there.

25 Q Okay. We marked some exhibits earlier. For

1 example, Exhibit 1 and 2 were tax returns in 2016 and
2 2017 for LN Professional Management. Your preparer
3 information was on there. Did you prepare similar
4 returns for the Allied companies in those years?

5 A I think so.

6 Q Okay. And if you had prepared those, based
7 on your memory -- I understand you're sort of
8 guessing -- would you have put your preparer
9 information on there?

10 A Yes.

11 Q Did I understand your testimony that you
12 left LN sometime in 2018?

13 A I believe -- I believe it was October.
14 Yeah.

15 Q Okay. You keep looking at Mr. Chester.

16 A I -- it just -- right. I'm looking at you
17 now.

18 Q Your best memory is October?

19 A Yes.

20 Q Were you a W-2 employee for LN?

21 A Yes.

22 Q And just to be abundantly clear about this
23 point, were you receiving W-2 forms from any other
24 company during the time that you were employed by LN?

25 A No.

1 Q Was LN your sole source of income during the
2 time period that you were working there?

3 A No.

4 Q Did you do bookkeeping services on the side?

5 A Yes.

6 Q Under what name or trade name did you do
7 that work?

8 A Palmer Tax and Bookkeeping.

9 Q Could you estimate the amount of time you
10 spent working as an employee of LN during the time
11 period you were there versus doing bookkeeping
12 services on the side?

13 A Estimate, 75 percent of the time was at LN.

14 Q Outside of your W-2 income, did you receive
15 any other compensation for your employment with LN?

16 A No.

17 Q When you say 75 percent of the time you
18 devoted your workday to LN, does that mean of the 40-
19 hour workweek, roughly 75 percent of those hours would
20 be on behalf of LN?

21 A No. What you asked me was how much of my
22 time did I spend on bookkeeping as opposed to working
23 for LN. That was 75.

24 Q Let me make sure I understood my question so
25 that we're communicating. My understanding is that

1 you were an employee of LN from approximately 2015 to
2 October of 2018?

3 A Correct.

4 Q During that period of employment, you were
5 also doing bookkeeping on the side unrelated to your
6 employment at LN?

7 A Correct.

8 Q What my question was, and I apologize if it
9 wasn't clear, what was the split of your time? In
10 other words, how much time were you spending working
11 as an employee of LN versus doing bookkeeping on the
12 side?

13 A I spent 40 hours in the office at LN. And
14 then I worked out of my home, you know, during tax
15 season probably 30 hours a week. The rest of the
16 year, five to ten. Yeah.

17 Q So throughout your employment with LN, you
18 were a full-time 40-hour-a-week employee?

19 A Yeah.

20 Q And anything you did outside of that was on
21 your own time when you weren't working for LN?

22 A Yeah.

23 Q You made a comment earlier that -- and I'm
24 paraphrasing. I apologize. I don't want to misquote
25 you. So let me know if I --

1 A Okay. Go ahead.

2 Q You made the comment earlier that, "The
3 amount of time that it took me to do my job was about
4 ten hours per week." And so I --

5 A I probably -- I think I said 20, but yeah.

6 Q What did you do with the rest of your time
7 during the 40-hour workweek?

8 A Goof around on -- on the internet, talk to
9 MJ. Just, you know, Clay wanted me there, you know,
10 during certain hours, so there I was.

11 Q What were your working hours?

12 A It was an eight -- eight to five kind of
13 thing.

14 Q Did you have an office that you went to?

15 A I went to the -- yeah, the -- the company
16 offices. Yeah.

17 Q And where were the company offices located?

18 A Gosh. I can't give you an address. They're
19 in Austin. I can't remember the address. It might be
20 on one of these tax returns. Yeah, here it is. 13581
21 Pond Springs Road, Suite 101.

22 Q During your time as an employee of LN, was
23 the office address at that Pond Springs Road the
24 entire time?

25 A Right when I first got on, I actually -- I

1 was still living in Lexington. And for a short time,
2 I worked out of the house.

3 Q When you were hired by LN initially in
4 approximately 2015, you were working remote out of
5 your home in Lexington, Texas?

6 A At the very first, yes.

7 Q Shortly after you started your employment,
8 did you move to Austin and begin working out of the
9 Pond Springs office?

10 A About a year into it.

11 Q When you were terminated, as I understand
12 it, in 2018, did that termination occur at the Pond
13 Springs office?

14 A That occurred at the -- at the -- at LN --
15 at another office that LN had. And I couldn't -- on
16 Brookwood.

17 Q How many offices did LN have?

18 A Best of my knowledge, just the two.

19 Q Who was present on a daily basis at the Pond
20 Springs location while you were working for LN?

21 A MJ, the -- the billing -- billing people,
22 the distribution -- the blood distribution people, and
23 me. Clay was there three, four days a week. And
24 Lewis would pop in every once in a while.

25 Q All right. You mentioned another location.

1 I think you said something along the lines of brook
2 something?

3 A I think Brookwood Road. Yeah.

4 Q Who was present, if you know, at that
5 particular location?

6 A That's where -- well, that was Lewis and
7 Clay. That was, like, the executive office.

8 Q So as far as you knew, Lewis Nichols and
9 Clay Ellis officed out of the Brookwood location,
10 whereas everybody else that you described officed out
11 of the Pond Springs location?

12 A Yeah. The worker bees were over at Pond
13 Springs.

14 Q MJ, is that MJ Cortez?

15 A Correct.

16 Q You know what those initials stand for?

17 A No.

18 Q What's his affiliation with LN or --

19 A Well, he was -- he was a logistics manager,
20 I guess, for lack of a better term. And just kind of
21 ran just the day to day, getting the blood in the
22 door, getting it processed, and getting it out, and,
23 you know -- and shipped to the hospitals for
24 processing, you know.

25 Q MJ Cortez, did he own or was he a part

1 owner, if you know, of LN?

2 A He had a company that was a partner.

3 Q And was that company -- and feel free to
4 look at the tax returns if you need to. But was that
5 company MJCX Professional Services?

6 A I believe that's correct.

7 Q If you know, what was MJ Cortez's background
8 in terms of his professional background?

9 A I think he worked for Spectrum before he
10 came there, running -- I think he was, like -- he had
11 a crew of installers. Yeah.

12 MR. MILLER: Off the record just for a
13 second.

14 THE VIDEOGRAPHER: The time is 12:02,
15 and we are now off the record.

16 (Off the record.)

17 THE VIDEOGRAPHER: We're back on the
18 record. The time is 12:03.

19 BY MR. MILLER:

20 Q Mr. Palmer, before the break, I was asking
21 you about Mr. Cortez's, that is MJ Cortez's,
22 background. You said he used to --

23 A I think -- I think his -- his job prior to
24 that was at Spectrum.

25 Q And Spectrum, that's the cable company?

1 A Yeah. Yes. Yes.

2 Q Any idea what he was doing there in terms of
3 his role?

4 A Just vaguely, it had do with installation, I
5 believe.

6 Q You mentioned that MJ was performing
7 logistic service for LN. What did you mean by that?

8 A Well, you know, just making sure things ran,
9 people showed up, things ran, and, you know, blood got
10 in the door on a timely basis, and then got processed,
11 and distributed properly to the people who did the
12 blood -- who -- who did the analysis of the blood.

13 Q Did y'all --

14 A You know, making sure all the computers
15 worked. Just -- you know, just all the stuff. It was
16 just --

17 Q Did y'all actually have blood samples at the
18 Pond Springs office location?

19 A Yes.

20 Q I'm trying to learn from you.

21 A You go ahead.

22 Q But in terms of the program, were blood
23 samples taken at a facility --

24 A No, the blood samples -- oh, I'm sorry. Go
25 ahead. You finish your question.

1 Q It's all right. Just for the record --

2 A No. No. Sure. That's fine.

3 Q Were blood samples taken and then
4 transferred to Pond Springs to be disbursed out to
5 some lab somewhere? Tell me how that worked.

6 A Correct. Well, the individual doctors would
7 have -- would have the blood drawn. We had couriers
8 to go pick up the blood, get them back to us. Then
9 they were sorted -- sorted in such a way to -- you
10 know, some were going to Glen Rose and some went
11 wherever else we did. And there -- and there was a
12 reason for it. I don't know what it was. But then so
13 we'd get them all packaged up and get the couriers out
14 the door to get them delivered.

15 Q All right. And you mentioned Knox County
16 Hospital --

17 A Knox. That's what it was. I'm sorry.

18 Q All right. Now as I understand it based on
19 what you're telling me, samples of blood were taken by
20 physicians. The samples were then delivered to the
21 Pond Springs location. And from there, they went out
22 to testing facilities. Is that true?

23 A Yeah. The blood samples were -- were put
24 outside the office door. You know, you'll have Quest
25 and whatever, you know, and then there was MMP. And

1 so we -- again, our couriers went to pick it up and
2 then bring it back.

3 Q And then from there, the blood went to the
4 testing places?

5 A Correct.

6 Q And the testing places, as it relates to MMP
7 and Allied, were those Knox County Hospital, Glen Rose
8 Hospital, and Stephens Memorial Hospital?

9 A Stephens, that's right. Yes.

10 Q Any other testing facilities related to MMP
11 and Allied?

12 A No.

13 Q You mentioned there were billing people in
14 the office. Do you know any names?

15 A No. No. I -- I don't. I didn't have a lot
16 of contact with them.

17 Q Approximately how many billing people are
18 you referring to?

19 A Four maybe.

20 Q And over the approximately two and a half,
21 three years you worked there, did you meet these
22 people and know their name and simply forgot, or
23 just --

24 A Yes. Oh, I knew their names at one time.
25 Yes.

1 Q You just don't remember as you sit here
2 today?

3 A Correct.

4 Q You mentioned distribution people. Who were
5 you referring to there?

6 A Well, we had -- we had, like, a lead. I
7 forget her name. So blood would come in, she would
8 check them, and -- and it was just set up to where
9 certain things went into certain places. And they
10 were -- they were broken up as to which hospital they
11 were going to.

12 Q Understood. Who were the distribution
13 people?

14 A Her -- well, basically, she -- she was the
15 lead and -- and the couriers -- the couriers. And
16 she'd tell them where to put the stuff.

17 Q The distribution people and the billing
18 people, were they employees of LN?

19 A Yes.

20 Q Did you have an office at the Pond Springs
21 location?

22 A Yes. I had a workstation.

23 Q And you had a computer in there?

24 A Yes.

25 Q Was it a desktop or a laptop?

1 A Desktop.

2 Q Did you have the same computer the entire
3 time you worked out of the Pond Springs office?

4 A I think so.

5 Q Do you remember what kind it was?

6 A It was a PC.

7 Q Was it a Dell?

8 A I think so.

9 Q What happened to that computer, if you know,
10 when you left?

11 A I have no idea what happened to it after I
12 left.

13 Q With respect to your work and things that
14 needed to be saved while you were working on them on
15 your desktop, was there a cloud drive, a server, or
16 something that you could access to save important and
17 relevant information?

18 A They -- it was saved -- it was saved
19 locally.

20 Q What does that mean?

21 A It means it wasn't on the cloud.

22 Q When you say locally --

23 A Locally -- I want to say we did backups, and
24 they were -- you know, and they were stored on site, I
25 believe.

1 Q Let's talk about two things. When you say
2 locally, do you mean there was a server on site that
3 important, relevant documents that you created on your
4 desktop were saved to?

5 A I'm not sure. We had -- we had a computer
6 guy, a contractor. And I think -- I want to say I
7 think he had it set up to -- to automatically do --
8 run a backup periodically.

9 Q Who was the computer guy?

10 A Couldn't tell you his name.

11 Q You mentioned it was a contractor?

12 A Yeah.

13 Q Not an employee?

14 A Not an employee.

15 Q So there should be an invoice or something
16 along those lines to LN for that particular
17 individual's services?

18 A Yes.

19 Q Do you recall if that person provided IT
20 services as needed or was there some sort of monthly
21 subscription.

22 A It was as needed, I believe.

23 Q You also mentioned something about backups.
24 What did you mean by that?

25 A I -- I mean, I forget whether we actually

1 had any external hard drive, or we backed up the
2 computer or whether something was set to back it up to
3 another server.

4 Q When you say another server --

5 A Well, another computer. You know, in case
6 my hard drive crashed, you'd -- you'd want a backup.

7 Q Do you remember one way or another whether
8 you had an external hard drive that you backed your
9 computer up to?

10 A No.

11 Q You mentioned something about the IT guy
12 setting up some sort of automatic backup. You recall
13 that testimony?

14 A Yeah. I believe that -- I mean, I -- I
15 think that was the case, but I'm not a hundred percent
16 sure now.

17 Q All your work, I assume, and with respect to
18 accounting, was done on your desktop. Is that true?

19 A Yes.

20 Q Did you create Excel sheets?

21 A Yes.

22 Q Did you create Excel sheets about revenues
23 coming in and expenses?

24 A Yes.

25 Q Did you create Excel sheets regarding

1 distributions to companies like Allied?

2 A Yes.

3 Q All that was saved on your computer?

4 A Yes.

5 Q And as far as you believe, based on this
6 particular IT guy, he had it set up where that stuff
7 would be backed up periodically?

8 A I think so. But again, I'm not 100 percent
9 sure.

10 Q What accounting program or software, if any,
11 was utilized?

12 A QuickBooks.

13 Q My understanding is that QuickBooks has a
14 cloud-based platform.

15 A It does.

16 Q Did you use the cloud-based platform?

17 A No. No. It was QuickBooks desktop. It was
18 not QuickBooks online.

19 Q Did it require a username and password to
20 access it from your desktop?

21 A Yes.

22 Q Did you have to access the internet to get
23 on QuickBooks?

24 A No.

25 Q When you left the company in 2018, where

1 were the QuickBook data files related to the
2 bookkeeping that you were performing during your
3 employment?

4 A On Pond Springs Road -- the office on Pond
5 Springs Road.

6 Q And when you say on the office, they were
7 either backed up as you mentioned it, or at least
8 saved to your computer?

9 A Yes. Yes.

10 Q What sort of Excel spreadsheets did you
11 create as it relates to accounting?

12 A Well, we use those to determine payouts to
13 the different entities. And basically, it tied -- it
14 tied a revenue stream to the bloodwork to the person
15 who ordered it.

16 Q And you created all that information in a
17 spreadsheet?

18 A Yes.

19 Q And was it your job to create that
20 spreadsheet?

21 A Yes.

22 Q Was it your job to update it?

23 A Yes.

24 Q Did you do that on a monthly basis or how
25 often?

1 A Well, the -- the basic spreadsheet -- no, I
2 updated -- I updated monthly. Yes.

3 Q Was the spreadsheet that you're referring
4 to, is that what was used to determine how much Allied
5 and/or its shareholders would be paid --

6 A Yes.

7 Q You created that?

8 A Yes.

9 Q Where did you get the information in order
10 to determine how much Allied and its shareholders
11 should be paid?

12 A Well, there -- there was a basic operating
13 agreement between those parties and us, and --
14 concerning how the revenue was split. And so you'd
15 bake it into the formulas, and just put in the
16 revenue, and everything else flows from there.

17 Q So these spreadsheets had formulas embedded
18 within them, and you would put in information, and it
19 would spit out information?

20 A Correct.

21 Q Where did you get the information that you
22 put into the spreadsheet on a monthly basis?

23 A That ultimately came from the -- the
24 contractual agreements between us and the -- the
25 Allieds and the other doctors.

1 Q Right. But as I understand it, how much
2 allied and its shareholders would be distributed in
3 part was based on how much revenue came in?

4 A Yes.

5 Q Where did you get the revenue number from?

6 A The revenue number came from the -- the
7 hospital. Yes. We had a collections department. Oh,
8 you know what? We did have another office for the
9 collection people. I forget where that was. Yeah.
10 But it was strictly -- I forget her name, too.

11 But the -- the hospital collected the money
12 from the insurance companies, and took their -- their
13 split, which I disagreed with, and then would send us
14 the remittance. So we know how much we collected by
15 patient for -- you know, for -- and the -- and the
16 patient was tied to a doctor. So you put all those
17 into the spreadsheet and it spits how much is due to
18 the different entities.

19 Q The revenue that you received from the
20 hospitals, did somebody give you that number to put
21 into the spreadsheet?

22 A No. It's what -- it's what hit the bank.

23 Q Okay. So would you get a wire from the
24 hospitals, or would you get checks, or a combination?

25 A Checks, I think. Checks. I think it was

1 checks.

2 Q So would you collect the checks and deposit
3 them?

4 A Yeah, I collected them out of the mailbox.

5 Q And then deposit them into an MMP account?

6 A Yes.

7 Q And the revenue number that you put into the
8 spreadsheet was based on the checks that you collected
9 and then deposited into the accounts?

10 A Mm-hmm. Yeah, we had a list of patients
11 that each -- each processing facility got -- got paid
12 on. And that tied to the check. And that tied to the
13 bank account. Yeah.

14 Q Did anybody provide you with information
15 that would go into the spreadsheets that were used to
16 calculate Allied and its shareholders' distributions?

17 A Well, again, those came from the -- the
18 contractual arrangement, you know, so.

19 Q I understand what you're saying about the
20 contractual arrangement. What I'm asking --

21 A Okay. What are you asking?

22 Q You got a spreadsheet that's got formulas
23 embedded into it based on the service agreement;
24 right?

25 A Right.

1 Q But you got to put information into the
2 Excel spreadsheet in order to determine what the
3 revenue share is; correct?

4 A Yes.

5 Q Did anybody provide you those numbers that
6 you needed to put into the spreadsheet?

7 A Yes.

8 Q Who provided them to you?

9 A That would've come from billing -- our
10 billing department.

11 Q Were those people on site at Pond Springs or
12 were they elsewhere?

13 A No. They were in a -- a house that was
14 rented for them. Maybe Manor or something like that.
15 It was remote.

16 Q Like, Manor, Texas?

17 A Yeah, something like that.

18 Q So there's, like, a residential house?

19 A Yeah.

20 Q And this is where the billers worked?

21 A Yes.

22 Q And they would provide you information that
23 you would then use to put into the spreadsheet?

24 A They would -- yes. Yes.

25 Q What specific information did you get from

1 these billers at this residential house in Manor to
2 put into this spreadsheet?

3 A The -- how much we collected by patient.

4 Q How would you receive that information?

5 A We received it -- it was our -- our billing
6 people -- the system's -- the system on site at Pond
7 Springs would -- would be updated. So yeah.

8 Q By you?

9 A No. No, no. By -- by the billing
10 department.

11 Q What system?

12 A Just they've got a list of -- they've got a
13 list of patients. Some have been paid. Some have not
14 been paid. And they, you know, basically -- my
15 understanding was they just kind of hammered on the
16 ones that hadn't been paid yet, and, you know, make
17 sure -- you know, and try to get payment on them.

18 Q Trying to make this as simple as possible.

19 A Yeah, I'm trying to remember.

20 Q My understanding is that you had some
21 spreadsheets that you would update on a monthly basis
22 on your computer at the Pond Springs location;
23 correct?

24 A Correct.

25 Q And when you put your numbers into the

1 spreadsheet, it would tell you how much Allied and its
2 shareholders were entitled to receive?

3 A Correct.

4 Q What I'm trying to understand is where you
5 got your information in terms of revenue dollars. My
6 understanding, based on what you said, is you got it
7 from the people who were working out of a house in
8 Manor.

9 A That's part of it. And -- and part of my
10 job was reconciling that to the money we actually got.

11 Q You said that your system would be
12 periodically updated by those people in Manor?

13 A The people doing the billing at Pond
14 Springs, their computer was tied in -- I believe, was
15 tied into the billing department over in Manor, and
16 they would get updated.

17 Q And what system was that?

18 A I don't know. I don't know.

19 Q Well, did you not have to access it in order
20 to update your spreadsheets?

21 A No, I didn't have to access it.

22 Q How was the information transmitted to you
23 on a monthly basis so that you could update your
24 spreadsheets?

25 A I don't remember exactly how I got it.

1 Q Was it by email?

2 A No. No. I -- I got it from somebody there
3 at Pond Springs.

4 Q Do you recall who?

5 A No.

6 Q Was it Mr. Ellis or --

7 A No, it wasn't -- no. No, it wasn't Clay or
8 Lewis.

9 Q Was it Mr. Cortez?

10 A No. I think it was -- ultimately, it was
11 the one who ran the billing department in Manor, the
12 overseer.

13 Q So the overseer of the billing department at
14 the house in Manor gave you the revenue information to
15 put into the Excel spreadsheet on a monthly basis?

16 A I think that was the case.

17 Q And how did that person deliver the
18 information to you?

19 A I don't remember.

20 Q You did this on a monthly basis over two and
21 a half years; correct?

22 A Correct.

23 Q And your testimony is that you don't recall
24 how you received that information from the individual
25 in Manor?

1 A I forget now exactly how the flow went.
2 Yes.

3 Q I understand that revenue was put into these
4 spreadsheets on a monthly basis in order to
5 calculate --

6 A The monthly payments. Oh, I'm sorry.

7 Q -- to calculate the monthly payments?

8 A Yes.

9 Q What other information had to be put into
10 the spreadsheet on a monthly basis to determine
11 monthly payouts?

12 A MMP's share and the top -- you know, top
13 line income. And there's -- MMP was -- came off of
14 that. And I think that's pretty much it.

15 Q You would get the revenue numbers from this
16 person in Manor. You don't recall how you got it, but
17 you would put that into the spreadsheet every month
18 for the two and half years that you worked there;
19 true?

20 A Correct. Yes.

21 Q You can't tell me whether it was hand
22 delivered, given to you over the telephone, emailed,
23 or mailed to you; correct?

24 A Correct. I -- I will say I think it was
25 some -- it was electronic, but I don't think -- I

1 don't think it was an email.

2 Q What other form of electronic means can
3 somebody send you revenue information so you can
4 update an Excel spreadsheet --

5 A Well, we had the billing people there on
6 site. And they could -- I -- how do you do that? I
7 might have gotten an updated -- updated information
8 from them every month.

9 Q So are you changing your testimony where you
10 earlier said it was from the person who oversaw the
11 operations at the house in Manor?

12 Q Well, it kind -- they worked hand in hand.

13 A So which is it? Did you get it from the
14 people on site, or did you get it from the person who
15 worked at the house in Manor?

16 A I don't remember. I really don't.

17 Q You put the income or revenue into the Excel
18 spreadsheet on a monthly basis every month for two and
19 a half years; correct?

20 A Correct.

21 Q What other information did you put into the
22 Excel spreadsheet in order to determine the monthly
23 payouts?

24 A The MMP -- MMP percentage.

25 Q Well, that was a formula; right?

1 A Yes. Right.

2 Q That would always be the same --

3 A Right. Exactly.

4 Q And what was that percentage? Do you
5 recall?

6 A No.

7 Q Okay. Outside of the revenue that you would
8 have to put into the spreadsheet on a monthly basis,
9 was there any other information that you had to
10 include into this Excel spreadsheet in order to
11 calculate the payouts?

12 A I don't recall. If I had one of them -- one
13 of them in -- if I could access it, I could tell you
14 what -- what each line was. But there wasn't -- there
15 weren't a lot, I mean, if any. I mean, basically,
16 it's a -- it was a straightforward service agreement,
17 you know.

18 Q And just to be clear, what you're doing with
19 these spreadsheets is saying: "Okay, here's how much
20 revenue we've brought in from the hospital. I'm going
21 to put that number into the spreadsheet. And based on
22 the contractual arrangement, we've got formulas
23 embedded in this Excel spreadsheet. Once we put the
24 revenue in, it spits out the profit share"?

25 A Yes.

1 Q Were expenses included, if any, within that
2 spreadsheet?

3 A I believe so.

4 Q What expenses? And whose expenses?

5 A I think -- I think we built in an overhead
6 amount. I think. I think that's what -- you know,
7 after we -- after we did it for six months, you know,
8 when everything's up and running, it's going to be
9 this much every month.

10 Q Was that a fixed number, the overhead, or
11 did that fluctuate, or was it based on a percentage of
12 revenue?

13 A No. It was a fixed number.

14 Q Do you recall how much?

15 A I do not.

16 Q And whose overhead was that?

17 A Well, it's the -- the overhead of the
18 offices, the rental of the offices, and, you know,
19 payroll, just all -- you know, just the overhead.

20 Q Of the company?

21 A Of MMP.

22 Q And just to be clear, LN?

23 A Yes.

24 Q Okay. So are you saying that, in addition
25 to LN's percentage share of the revenues, there was

1 also an overhead amount that was deducted from the
2 revenue every month?

3 A I believe that's the case. Yes.

4 Q But you're not certain?

5 A Not 100 percent.

6 Q Any other deductions outside of this
7 possible overhead deduction that you're not certain
8 amount?

9 A No. No.

10 Q Now when you prepared this Excel
11 spreadsheet, after you put in the numbers and it spit
12 out the profit share, what did you do with it?

13 A I took those to Clay.

14 Q How did you deliver them to Clay?

15 A Walk about 10 feet and hand them to him.

16 Q You physically printed out copies, you
17 walked over to Clay's office, and you physically
18 handed him the copies?

19 A Yeah. Yes, sir.

20 Q And did you save a copy of that to your
21 computer?

22 A Yes.

23 Q And every month when you did the same
24 process, you received the revenue information from
25 wherever you got it from, you would put that revenue

1 information in the Excel spreadsheet, you'd save it to
2 your desktop or wherever you saved it on your
3 computer, and then you'd print out a copy and deliver
4 it to Clay?

5 A Correct.

6 Q And where exactly on the computer did you
7 save these reports every month?

8 A I just would've created a file for, you
9 know, Excel. I forget what we called the report.

10 Q And the file, would you access that by going
11 to the drives?

12 A Well, it was just -- it was stored on your
13 basic C drive. Yeah.

14 Q So there was a C drive at MMP that your
15 computer had access to, where you had a file that kept
16 all these reports?

17 A Yes.

18 Q And the day that you were walked out or left
19 MMP, all those files that you had created were saved
20 there?

21 A Yes.

22 Q At no point in time did you ever delete
23 them?

24 A No.

25 Q You had no reason to delete them?

1 A No.

2 Q The creation of these spreadsheets, that was
3 done by you as an employee of MMP on behalf of Allied
4 companies or the Allied shareholders so they knew what
5 they should be getting every month?

6 A Yes.

7 Q Who was your boss or superior at MMP?

8 A Well, I reported to MJ to a point. But
9 mainly to Clay, Clay and Lewis.

10 Q Was Clay the individual who asked you to
11 create these reports on a monthly basis?

12 A Yes.

13 Q Do you know if Clay had any involvement in
14 determining how much revenue would be reported to you?

15 A Well, Clay was involved in setting up --
16 setting up the system -- setting up, you know, all
17 the -- all the systems in place. So did that answer
18 your question?

19 Q Let me ask you a few more to see.

20 A Okay.

21 Q Every month, you got this revenue number. I
22 know you don't recall how you got it. But was Clay
23 involved in determining how much revenue would be
24 reported to you, if you know?

25 A No, I don't think he was. No.

1 Q How can you be certain?

2 A Well, because I can be, you know, relatively
3 certain because when it's all said and done, the
4 number -- the number that we say we should have gotten
5 from our billing department matches that check we got
6 from the -- from the hospital.

7 Q And how did you reconcile those amounts on a
8 monthly basis?

9 A Well, we got a hundred dollars from the
10 hospital. And, you know, ten went to Allied, ten went
11 here, ten went there, ten went there. Well -- I'm
12 sorry -- we got a hundred dollars from the hospital.
13 Our billing department says we should get a hundred
14 dollars from the hospital. Okay.

15 Q How did you perform that reconciliation on a
16 monthly basis?

17 A From the detail given to me by the billing
18 department. Yes.

19 Q Okay. So in other words, you would say --
20 and I know you don't remember how you got the
21 information from the billing department, but they'd
22 tell you, to use your example, a hundred dollars from
23 Knox County. Would you go look at the bank accounts
24 and make sure there was a hundred dollar check from
25 Knox County that month?

1 A I would ordinarily make the deposit or hand
2 it to Clay or whoever to go make the deposit.

3 Q Was there some sort of accounting software
4 that was used to actually do that reconciliation? In
5 other words, billing tells you something. Did you go
6 into QuickBooks or any other accounting software to --

7 A To do reconciliation? No. No.

8 Q Did you utilize online banking to verify
9 that: "Okay, billing department says we should get
10 this from this hospital. Let me go check the online
11 banking to make sure we actually got it"?

12 A Yes. I -- I reconciled the bank accounts
13 every month. Yes.

14 Q What bank?

15 A There was Comerica and there was IBC. I
16 think IBC.

17 Q So LN or MMP had a bank account or accounts
18 at Comerica Bank?

19 A Correct.

20 Q They also had an account or accounts at IBC?

21 A Yes.

22 Q And we're talking about LN Professional
23 Management?

24 A Yeah.

25 Q Any other bank accounts?

1 A No.

2 Q The only way you could verify the revenue
3 that should be coming in from a hospital was to rely
4 on what billing told you?

5 A Yes. Yeah.

6 Q Because otherwise you would have no idea?

7 A That's correct. Yeah.

8 Q Was Clay involved in the billing?

9 A In that he was -- he -- director of
10 operations, he was involved in all aspects.

11 Q So he was involved in billing?

12 A Yes.

13 Q Did he oversee the billing?

14 A He had a -- he had a manager in billing.

15 Q But did he oversee the manager in the
16 billing department?

17 A Yeah. Yes.

18 Q Fair to say that Clay directed the day-to-
19 day operations of MMP?

20 A Yes.

21 Q And he had authority over everybody who
22 worked there?

23 A Yes.

24 Q And if Clay were to give you an order, it'd
25 be something you would do?

1 A Yes.

2 Q Same for any of the other employees?

3 A Yes.

4 Q Including the employees at the billing
5 department?

6 A Yes.

7 Q You had online access to accounts at
8 Comerica and IBC. Is that true?

9 A Yes.

10 Q How many accounts at Comerica, do you know?

11 A MMP had one account.

12 Q And did they have more than one account at
13 IBC, if you know?

14 A Just the one. Just one that I'm -- yeah.
15 Yeah. Just the one.

16 Q Okay. So you knew of two accounts that MMP
17 had?

18 A Well, and they didn't have them at the same
19 time. I think -- like, I want to say we started off
20 with Comerica and we went to IBC, but it might be the
21 other way around.

22 Q All right. I want to talk to you a little
23 bit more about the calculations for the revenue share
24 to Allied and its shareholders.

25 A Okay.

1 Q Broad view, there was a revenue number that
2 came in that was given to you for the spreadsheet;
3 right?

4 A Yes.

5 Q You believe there was an overhead number
6 that was fixed that was included in the spreadsheet?

7 A Yes.

8 Q Then the breakdown of the revenue and how it
9 was to be distributed among the Allied shareholders
10 was based on a formula that was baked into the
11 spreadsheets?

12 A Yes.

13 Q And so suffice it to say, all you needed in
14 order to calculate this revenue share was the revenue,
15 which was provided to you by the billing department,
16 because all the other information was already baked
17 into the spreadsheet?

18 A It was the revenue given to me by the
19 billing department coupled with tying that to what we
20 actually receive. This is -- this is the money we've
21 received.

22 Q In those two bank accounts that you knew
23 about?

24 A Yes.

25 Q Goes without saying that if there were other

1 accounts that you didn't know about, you wouldn't know
2 if MMP was receiving any additional Monday?

3 A Correct.

4 Q Did you ever make a copy of any of these
5 spreadsheets that you created on a monthly basis?

6 A I created a copy every month to give to
7 Clay.

8 Q Okay. And that was a physical copy?

9 A Yes.

10 Q Do you recall in the two and a half years if
11 you ever emailed any of these Excel spreadsheets to
12 anyone?

13 A I don't think I did. No.

14 Q Can you be certain that there would never be
15 an email from you to anyone attaching one of these
16 spreadsheets?

17 A I don't remember ever -- ever doing -- doing
18 it electronically.

19 Q If, as you understand it, the spreadsheets
20 were backed up on a periodic basis, then other people
21 had access to them besides yourself. Is that true?

22 A I -- yes.

23 Q Who else had access to these spreadsheets
24 besides yourself?

25 A Well, let's see. Theoretically --

1 theoretically, I guess, MJ, Clay, and then Dylan when
2 he came on board. I -- yeah.

3 Q What about Lewis? As far as you know, did
4 he have access to these spreadsheets?

5 A Theoretically, he could have.

6 Q Right. Because they were saved to a
7 location where other people --

8 A Right. They were saved -- they were
9 saved -- oh, sorry.

10 Q I apologize.

11 A I'm sorry. I'm sorry.

12 Q Because they were saved to a location where
13 other people could access them; true?

14 A Yes.

15 Q As far as you knew, Clay or MJ could get on
16 their desktop and take a look at these spreadsheets if
17 they wanted?

18 A Yes.

19 Q As I understand it, no one assisted you with
20 the preparation of these spreadsheets outside of
21 providing you with the revenue number and perhaps
22 initially putting in the formulas for the revenue
23 share?

24 A Correct.

25 Q Were these spreadsheets ever changed after

1 they were created?

2 A No.

3 Q At least to your knowledge?

4 A To -- to my knowledge, no.

5 Q Do you know the distinction, if any -- let
6 me strike that and ask a better question. What was
7 the purpose, if you know, of Allied Lab Solutions
8 Management?

9 A The purpose?

10 Q Why did it exist independent of Allied Lab
11 Solutions, if you know?

12 A I don't know.

13 Q You have any idea what role Allied Lab
14 Solutions Management played versus Allied Lab
15 Solutions?

16 A No. No.

17 Q What is Dire Straits, LLC?

18 A Dire Straits, LLC, was the LLC owned by
19 Lewis Nichols.

20 Q And was Dire Straits a partner or owner of
21 LN?

22 A Yes.

23 Q And the other owner of LN was MJCX
24 Professional Services?

25 A That was one of them as well. Yes.

1 Q And that was owned by MJ Cortez?

2 A Correct.

3 Q Fair to say that, in essence, Lewis Nichols
4 and MJ Cortez owned LN?

5 A They owned part of it. The owners are --
6 the partners are Torque Wrench, LLC, 20 percent,
7 Diagnostic Gestalt, LLC, 20 percent, Empath Partners,
8 LLC, 20 percent, Dire Straits, LLC, 20, and MJCX
9 Professional Services, 20 percent.

10 Q That was in the tax year 2016?

11 A I'm looking at 2017 right now.

12 Q Was that different than tax year 2016?

13 A I don't think so. I'll look. In '16, Dire
14 Straits, Torque Wrench, MJCX, Diagnostic Gestalt,
15 Empath Partners. Yup, that's it.

16 Q And I know you don't have the document in
17 front of you, but was there a change in that ownership
18 or partner structure for tax year 2018, if you know?

19 A Yes, I believe there was.

20 Q Do you know what it was?

21 A I think Torque Wrench had -- had his
22 partnership interest bought out.

23 Q Do you know who bought it out?

24 A I think just MMP, the company, did.

25 Q And how about -- did you say Empath? Were

1 they involved in 2018 tax year, if you know?

2 A That's the only -- only change I'm aware of
3 was Torque Wrench.

4 Q Were you terminated from LN?

5 A Yes.

6 Q For what reason?

7 A Well, revenue was down. And -- and we
8 basically brought on my replacement. And so yeah. I
9 was getting paid more. It's a cost -- I -- I guess
10 it's a cost-saving measure.

11 Q As far as you know, did your leaving the
12 company have anything to do with something you did,
13 something you failed to do, outside of just maybe a
14 change in revenue and you were being too expensive?

15 A Nothing else that I can think of.

16 Q In other words, when you were let go, they
17 didn't say, "Mr. Palmer, we're letting you go because
18 you did this, or we asked you to do this, but you
19 didn't"?

20 A No.

21 Q What did they say to you when they let you
22 go?

23 A Nothing really. Just nothing. "You're
24 being let go." I said, "All right."

25 Q Who let you go?

1 A Clay.

2 Q Anybody else in the conversation?

3 A MJ was there.

4 Q But did anybody else hear the conversation?

5 A Anybody else hear it? No, nobody but the
6 three of us in the room.

7 Q So in the room when you were let go was Clay
8 Ellis, MJ Cortez, and yourself?

9 A Correct.

10 Q And was it Mr. Ellis who told you that you
11 were being let go?

12 A Correct.

13 Q Was anything else said?

14 MR. CHESTER: Objection. Asked and
15 answered.

16 THE WITNESS: I was going to say not --
17 no. He was short and sweet as termination should be.

18 BY MR. MILLER:

19 Q Did you ask for a reason why you were being
20 let go?

21 A No. No, I -- I mean, hell, I saw it coming.

22 Q What do you mean by that?

23 A Well, they brought on Dylan when revenues
24 were going down, and brought him on about a third my
25 price, and had me train him. I mean, you know, it's

1 not my first rodeo, man.

2 Q Do you know why revenues were down in 2018?

3 A They were down primarily because Blue Cross
4 Blue Shield stopped or highly curtailed -- I'm not
5 sure if they stopped completely -- payments.

6 Q Payments for?

7 A Bloodwork.

8 Q In other words, these hospitals would
9 perform the tests, but they weren't begin reimbursed
10 by the insurance carriers?

11 A Correct.

12 Q And mainly Blue Cross Blue Shield?

13 A If I -- yeah. Blue -- I think Blue Cross
14 Blue Shield was the -- yeah.

15 Q Earlier, you were asked some questions about
16 your relationship with Mr. Ellis. And I don't recall
17 exactly what you said. But I got the impression that
18 you and Mr. Ellis don't have a good relationship?

19 A We didn't really get along, you know. But
20 this was work, you know.

21 Q Did something sour between you and
22 Mr. Ellis?

23 A Nothing in particular. It's just
24 personality wise. We have -- we just have different
25 personalities.

1 Q After you left in October of 2018, did you
2 do any additional work for LN?

3 A For LN? No.

4 Q Did you do any additional work for any of
5 the partners of LN?

6 A I did an audit for -- for Lewis.

7 Q Outside of that audit for Lewis Nichols, did
8 you do any other work for the partner entities or the
9 owners of those entities?

10 A No.

11 Q Outside that \$5,000 payment from Mr. Nichols
12 associated with that audit, did you receive any
13 payments after you left from LN, any of its entities,
14 or any of the owners of the partners?

15 A No.

16 Q Did you receive any payments from Mr. Ellis?

17 A No.

18 Q Outside of the 5,000 from Lewis Nichols, did
19 you receive any other payments from him?

20 A No.

21 Q How about Mr. Cortez?

22 A No.

23 Q How about from any person that you know to
24 be associated with LN Professional Management, its
25 partners, or the owners of the partners?

1 A No.

2 Q When you left LN in October of 2018, did you
3 have any additional correspondence with Mr. Ellis,
4 Lewis Nichols, MJ Cortez?

5 A With MJ. Right -- I was the agent on a --
6 on a nonprofit that we had started. And I had -- I
7 had to meet MJ at the bank so he -- I was a signer on
8 the -- on the account. And so --

9 Q So you had to meet at the bank so that you
10 could turn those --

11 A Over to MJ. Yeah.

12 Q Okay. So outside of that meeting at the
13 bank for this nonprofit after you were terminated,
14 have you had any other correspondence or meetings,
15 telephone calls, emails with MJ Cortez?

16 A No.

17 Q No text messages with MJ Cortez?

18 A No.

19 Q I understand that you probably talked with
20 Lewis Nichols about the tax audit. Outside of that in
21 2019, have you had any telephone calls, emails, text
22 messages, or meetings with Lewis Nichols?

23 A No.

24 Q How about Mr. Ellis? After you left in
25 2018, did you have any phone calls, meetings, text

1 messages, or emails from Mr. Ellis?

2 A No.

3 Q Same question for Dylan Parks, who I
4 understood took over your position. Did you speak
5 with him after you left in 2018?

6 A Well, apparently he came to my house once
7 for a drink right after, like the day after, I think
8 it was said. But he -- I -- I had a couple of very
9 brief -- he called me with a question: "How do we do
10 this? How do we do that?"

11 Q How about JP Forage? Do you know who that
12 is?

13 A I met him a couple of times. He -- I forget
14 who he was associated with. And I forget his exact
15 relationship to the company.

16 Q After you left in 2018, have you had any
17 texts, phone calls, emails, or meetings with JP
18 Forage?

19 A No.

20 Q How about Landon Northcutt? Do you know who
21 that is?

22 A Landon Northcutt was one of the original
23 attorneys up in Stephenville when the company first
24 started. But -- but as -- are you asking me if I had
25 any further --

1 Q I will ask that.

2 A Oh, okay.

3 Q After you left the company, did you have any
4 further correspondence with him?

5 A No.

6 Q Who is Rebecca Smith?

7 A Rebecca -- oh, Rebecca Smith was the head of
8 billing. Yeah.

9 Q And is she related to any of the other
10 employees, owners of these companies in any way, if
11 you know?

12 A Not that I know of.

13 Q Do you know who Mac Rust is?

14 A Mac Rust. Mac Rust. I think what -- I
15 think he was another attorney in the same office as
16 Northcutt.

17 Q What's your telephone number?

18 A (512) 971-2413.

19 Q Is that a cell phone or landline?

20 A Cell.

21 Q Do you have a landline?

22 A No.

23 Q With respect to your business that you
24 operate out of your home, do you use your cell phone?

25 A Yes.

1 Q How long has that been the case?

2 A I don't know. Twenty-five years.

3 Q Fair to say that while you were at LN and
4 since leaving LN, you haven't had any landlines?

5 A Correct.

6 Q Okay. And your telephone number has always
7 been the (512) 971-2413 number?

8 A Correct.

9 Q Do you have MJ Cortez's number in your
10 phone?

11 A Well, let's see.

12 MR. CHESTER: I'm going to object to
13 putting that on the record. We can give it to you
14 privately if there's a reason for it.

15 THE WITNESS: No need. It's not.

16 MR. CHESTER: So don't read it out
17 line, please.

18 THE WITNESS: No, I don't.

19 BY MR. MILLER:

20 Q Do you have MJ Cortez's number on your
21 phone?

22 A I do not.

23 Q Do you have Clay Ellis's number on your
24 phone?

25 A I do not.

1 Q Have you checked?

2 A I will, but I do not. Nope.

3 Q Let me ask it this way. Have you ever had
4 MJ Cortez's or Clay Ellis's number on your phone?

5 A I have in the past. Correct.

6 Q Did you delete their numbers from your
7 phone?

8 A Yes, I did.

9 Q When did that happen?

10 A Shortly after I left.

11 Q How about Lewis Nichols? Do you have him on
12 your phone?

13 A No.

14 Q Did you ever have Lewis Nichols in your
15 phone?

16 A Yes.

17 Q Did you delete him?

18 A Yes.

19 Q When did you delete him?

20 A Probably a little later than I deleted Clay
21 and MJ.

22 Q Was there a reason you deleted Lewis
23 Nichols, MJ Cortez, and Clay Ellis from your phone?

24 A I no longer worked there.

25 Q Was that the reason why you deleted their

1 numbers?

2 A Yes.

3 Q How about JP Forage? Do you have his number
4 in your phone?

5 A I'll check. I -- I'd be surprised. No.

6 Q Do you recall ever having JP Forage's number
7 in your phone?

8 A No.

9 Q I apologize if I asked you this. Do you
10 know who Dana White is?

11 A Dana White was one of the billing girls
12 there at Pond Springs.

13 Q Was Rebecca Smith the head billing person?

14 A Yes.

15 Q Was she the person at the house in Manor?

16 A Yes.

17 Q Was she the person who would give you the
18 revenue on a monthly basis?

19 A I'm not sure if I got it directly from her
20 or if I got it -- if -- or if she just declared the
21 month closed, and then I got it, you know, from one of
22 the girls in the office.

23 Q How was it that you became employed by LN in
24 approximately 2015? How --

25 A I knew -- I knew Lewis previously.

1 Q And how did you know Lewis?

2 A Tax work. Doing his tax returns.

3 Q What was the opportunity as it was described
4 to you when you came on board at LN?

5 A Just keeping the books and just the general
6 accounting functions.

7 Q Did you know any of the other employees or
8 partners at LN other than Lewis Nichols?

9 A I didn't know them. I met Dr. Franklin. He
10 was good friends with my former brother-in-law. And I
11 met him 30 years ago one time. He had -- he bought me
12 great aunt's house in Travis Heights that had a pool
13 and a tennis court. And we went up there one time and
14 had drinks, but 30 years ago. Long, long time.

15 Q And that's the only time you've ever met or
16 talked with Dr. Franklin?

17 A Correct.

18 Q Where were you living when you were working
19 for LN in Austin?

20 A Well, for the first -- for the first year or
21 so, I was living in Lexington. And then the drive got
22 to me, so I moved into town. Found a house about a
23 mile from the office.

24 Q Do you recall what street that was?

25 A No. It might be on one of these returns.

1 Yes. 12705 Acadian Trail.

2 Q And did you reside at that address there in
3 Austin throughout the rest of your tenure at LN?

4 A Yes.

5 Q After you left LN in October of 2018,
6 where'd you go after that?

7 A Oh, about a year -- about a year later,
8 moved up here to Grapeland.

9 Q What'd you do after you left LN, in terms of
10 employment?

11 A Went to work for a -- a tax prep firm,
12 Marshall Financial Services.

13 Q Did you work for them for approximately a
14 year?

15 A No, less than that. One tax season. So
16 early January through late April.

17 Q And then after that did you start working
18 for yourself again?

19 A I worked myself the whole time. And yes, I
20 continued to -- yeah. I still do today.

21 Q And then moved out to Grapeland?

22 A Correct.

23 Q And we're here in Crockett, Texas, now. And
24 Grapeland, I understand it, is pretty nearby?

25 A Ten miles.

1 Q Did you grow up in this area?

2 A No. No, I grew up in -- I was born and
3 raised in Austin.

4 Q You have any family out in this area?

5 A Yeah, well, mother-in-law. That's why we're
6 here, taking care of her.

7 Q Currently married?

8 A Yes.

9 Q What's your wife's name?

10 A Julia.

11 Q Same last name?

12 A Yes.

13 Q How long have y'all been together or
14 married?

15 A Twenty-two years. I better not get that
16 wrong if it ever comes back out. That's --

17 Q We won't show her the transcript.

18 A Ninety -- wait, hang on. '99, that would
19 make it twenty -- 24.

20 Q And was she living with you in Austin while
21 you were working at LN?

22 A Yes.

23 Q Your cell phone number that you gave me,
24 who's your carrier?

25 A Mint.

1 Q Outside of the Palmer Tax and Bookkeeping
2 company, are you an owner, director, member on any
3 other companies?

4 A No.

5 Q As you understand it, what was LN in the
6 business of doing?

7 A LN? Processing bloodwork.

8 Q Did you clock hours or were you on salary?

9 A I was salary.

10 Q And did you receive a W-2 every year?

11 A Yes.

12 Q I understand that LN had a services
13 agreement with Allied Lab Solutions Management. Are
14 you aware of other service agreements that MMP had
15 with any other companies?

16 A I think they had a service agreement with
17 the -- all the partners.

18 Q What do you mean by all the partners? What
19 do you mean by that?

20 A Well, shoot. Let's see. I'm not a hundred
21 percent sure now if -- if the -- the service
22 agreements probably were with the doctor groups as
23 opposed to the partners. In order to let us be
24 their -- their -- instead of using Quest, you know,
25 use us instead.

1 Q Here's the reason I'm asking. And I can
2 show you a service agreement that I have that's
3 between LN Professional Management and Allied Lab
4 Solutions Management. Outside of that particular
5 services agreement, are you aware of any others that
6 LN Professional Management had?

7 A Well, we had service agreements with -- if
8 we're writing somebody a check, we have an agreement
9 with them, how much that check's going to be. So the
10 other people that we cut checks to.

11 Q Have you seen those agreements?

12 A Probably not. No. It was -- it was -- to
13 the best of my knowledge, it was the same for each --
14 you know, for each -- each entity.

15 Q Outside of the LN and Allied relationship,
16 the blood testing relationship, did LN do business
17 with any other entities related to the collection and
18 testing of blood samples, outside those connected to
19 Allied?

20 A Yes. I mean, I -- we cut, I don't know, a
21 dozen checks a month. You know, so yeah. So yeah,
22 and it wasn't all -- it wasn't all Allied by any
23 stretch.

24 Q And maybe a better way to ask it is, those
25 spreadsheets that we were talking about where you did

1 your calculation of what Allied and its shareholders
2 should receive every month, did you do a similar one
3 for unrelated companies?

4 A Yes. Yes.

5 Q And you had those spreadsheets, and they
6 were saved as well?

7 A Yes. Yes. Absolutely. Yeah.

8 Q And it was the same process that we
9 described earlier; correct

10 A For those unrelated entities?

11 A Yes.

12 Q And everybody that you described earlier had
13 access to those spreadsheets as well.

14 A Yes.

15 Q And you got the revenue number and all that
16 information in the same way?

17 A Yes. Yeah. It was -- everything was the
18 same. Correct.

19 Q And as far as -- strike that. When you left
20 the company in October of 2018, all those spreadsheets
21 that you had created, you saved?

22 A Yes.

23 Q Were you involved in transmitting
24 information to Allied shareholders about their revenue
25 share?

1 A No. I mean, once the check was written to
2 Allied, how it got disbursed once it was in Allied,
3 that was, you know, past me. So yeah, I --

4 Q Sure. Let me ask a little bit better
5 question. The spreadsheets that you prepared every
6 month that were saved, those spreadsheets, were those
7 distributed, if you know, to Allied and its
8 shareholders?

9 A I -- yeah. I would -- I would think so.
10 Yes.

11 Q Do you know who did that?

12 A I would think Clay probably would have.

13 Q Did you ever do that?

14 A No. I don't think. No. There -- there
15 would be no need for me to because that -- you know,
16 Clay's the one -- Clay's the chief operations officer
17 or whatever, and he's the one who -- you know, who
18 dealt with them, so.

19 Q If you know, how did Clay distribute those
20 Excel spreadsheets related to revenue share to Allied
21 and its shareholders?

22 A Strictly a guess, but it probably would have
23 been attached to the check. Or -- or if it was a
24 wire, it would've been emailed to them, I -- yeah, I
25 guess. I'm not -- yeah, I'm not sure.

1 Q So if it was emailed to them, it would've
2 been by Clay, not by you?

3 A As memory serves, that would be correct.
4 Yeah. But he also could've instructed me to send it
5 to them. And -- and if that were the case, I
6 would've.

7 Q Do you have any idea, as you sit here right
8 now, where these spreadsheets are that you created?

9 A I have no idea where they are now.

10 Q Do you have access to them in any way?

11 A Do I? No, I do not.

12 Q Have you had access to them since you left
13 in October of 2018?

14 A No.

15 Q Outside of perhaps preparing some tax
16 records for tax returns for the Allied companies, were
17 you involved as an employee or otherwise for the
18 Allied companies?

19 A No.

20 Q All your work, in essence, was done on
21 behalf of LN?

22 A Yes.

23 Q If wires were used to send checks to
24 shareholders or Allied companies, who at LN instigated
25 those wires?

1 A Probably MJ, I would think.

2 Q You did not?

3 A I couldn't.

4 Q What does that mean?

5 A Well, to do a wire, you -- you have to, you
6 know, be one of two people. I didn't have signature
7 authority on the account.

8 Q Who had signature authority on the Comerica
9 and IBC accounts?

10 A I think it was MJ, Lewis, and Clay. Yeah.
11 I think.

12 Q With respect to checks that were written to
13 Allied or its shareholders, who actually cut those
14 checks and signed them?

15 A I cut the checks and there were -- and there
16 were two signature checks. And ordinarily, that would
17 MJ and Clay that signed the checks.

18 Q Were those checks mailed to Allied and its
19 shareholders?

20 A I don't know.

21 Q You weren't involved in the delivery of the
22 checks?

23 A No. Except for the one down the street,
24 that one organization down the -- the street. I'd
25 just drive it up and drop it off.

1 Q Do you recall the name of that organization?

2 A Man, I do not. And -- no, I don't.

3 Q You had online access to Comerica and IBC,
4 but you were not allowed to wire money or write
5 checks?

6 A Correct. Well, I wasn't -- I wasn't allowed
7 to sign checks.

8 Q Okay. Fair enough. Did you ever review any
9 service agreements between LN and Allied?

10 A Yes, in order to set up the spreadsheet.
11 Just one time.

12 Q So let me go back over that, because I was
13 under the impression that the spreadsheet was already
14 set up for you.

15 A No, I had to have the -- the mechanics of
16 the operating agreement in order to set it up.

17 Q But that was just a one-time occurrence?

18 A Right. Right.

19 Q Because once you got the formulas in there,
20 you didn't need to go back in and change them?

21 A Correct.

22 Q And you were the one who set up the
23 formulas?

24 A Yes.

25 Q Based on information you gathered from

1 where?

2 A Well, the overhead was gathered from
3 operating for -- for a time. You know, see what that
4 operate -- the overhead burden would be. And then the
5 rest was the split outlined in the -- in the service
6 agreement.

7 Q Was the overhead that you're referring to
8 outlined in the service agreement?

9 A Yes. Yeah, it was money in plus our
10 overhead, here's the split on the net income.

11 Q And as I understand your testimony thus far,
12 the overhead was determined after several months of
13 doing the work. You guys were able to figure out what
14 your overhead costs were?

15 A Yes. Yes.

16 Q And in terms of the monthly calculations in
17 the spreadsheet, that overhead became a fixed number
18 that was included?

19 A Yes, I believe so.

20 Q And that information was disclosed on the
21 spreadsheets that you created?

22 A Yes.

23 Q And as far as any other deductions from the
24 revenue, there were none outside of the overhead that
25 you just described?

1 A The percentage that goes to MMP.

2 Q Fair enough.

3 A And that's it.

4 Q Okay. So in other words, MMP or LN gets
5 money from the hospital. We have a fixed number for
6 overhead that we take out, which is the same every
7 month. And then we calculate our revenue share on
8 that amount?

9 A Yes. I believe that's correct.

10 Q With a certain percentage going to LN and
11 then the remaining percentages going to Allied and its
12 shareholders?

13 A Yes.

14 MR. MILLER: Why don't we take a break
15 real quick. Been going for a little over an hour.

16 THE VIDEOGRAPHER: The time is 1:11,
17 and we are now off the record.

18 (Off the record.)

19 THE VIDEOGRAPHER: We're back on the
20 record. The time is 2:16.

21 BY MR. MILLER:

22 Q Mr. Palmer, we're back from lunch. Are you
23 ready to continue your deposition?

24 A Yes.

25 Q You understand that even though we've taken

1 a lunch break, you're still under oath?

2 A Yes.

3 Q Did you speak with anyone during the break
4 about this case or about the testimony you've given?

5 A No.

6 Q You mentioned you have Mint Mobile as your
7 carrier. Who was your carrier before Mint Mobile?

8 A I think it was AT&T.

9 Q Have you had contact with any of the
10 attorneys for Mr. Ellis, Mr. Nichols, MJ Cortez
11 related to this case or in preparation for your
12 deposition?

13 A I talked to somebody last week. I'm trying
14 to remember that lawyer's name. And I can't -- I -- I
15 don't know who he worked for, actually.

16 Q Did you speak with Mr. Ellis's lawyer about
17 the declaration prior to your deposition today?

18 A No.

19 Q Did you request a copy of your declaration
20 from Mr. Ellis's lawyer?

21 A Which lawyers are Mr. Ellis's?

22 Q Right here. Mr. Hobbs.

23 THE WITNESS: Mister -- yeah. You're
24 who I talked to last week; right?

25 MR. HOBBS: No. I mean, I'm not on

1 record, but no.

2 THE WITNESS: I don't think so.

3 BY MR. MILLER:

4 Q Did you request a copy of your
5 declaration --

6 A Oh, no. No. It was sent to me with this.

7 Q That's the way you got a copy of your
8 declaration?

9 A I had one sent to me as well from someone.
10 Oh, that would've been an email. All right. Never
11 mind.

12 Q Let me go about it this way.

13 A Okay.

14 Q You did receive a subpoena in this case, and
15 I believe it's been marked as an exhibit to your
16 deposition. Is that true?

17 A Yes, I believe it was.

18 Q Did you review that subpoena before you
19 showed up today?

20 A No. Oh, I'm -- that's my copy.

21 Q Well, I guess, that begs the question. If
22 you didn't review the subpoena, how'd you know you
23 needed to be here today?

24 A Well, no. I -- I looked at the time. But
25 did -- I didn't read through it.

1 Q Did you read through the requests for
2 documents?

3 A No.

4 Q Did you review the declaration that was
5 attached to your subpoena?

6 A The one I did earlier? That -- that's on
7 the declaration?

8 Q Exhibit Number 6, which you were presented
9 in your deposition, had a request for production as
10 well as a copy of your declaration attached. My
11 question is, did you review your declaration before
12 showing up here today?

13 A Let me look at the declaration. Yes, that.
14 Okay. Oh, yes. Yes. Yeah, I -- I have now. Yes.

15 Q Well, my question was, before you showed up
16 today, did you review it?

17 A Yes. Yes, sir.

18 Q And did you -- okay.

19 A Yeah, I -- I looked at the list of documents
20 and didn't have any.

21 Q Did you make an effort to actually search
22 for the documents?

23 A Yes.

24 Q What efforts did you make to search for
25 documents?

1 A I went back through -- I went back through
2 emails. I went back through to make sure I didn't
3 have anything on QuickBooks or anything, and I didn't.
4 The only thing that I had were -- were the tax
5 returns.

6 Q When you did your review for documents, you
7 found tax returns belonging to which entity?

8 A MMP, Clay, Lewis, and Allied.

9 Q And did you bring those documents with you?

10 A No.

11 Q What years do you have tax returns for for
12 those entities?

13 A I think '16 and '17.

14 Q Any for '18?

15 A I don't -- no, I don't think so. But I'd
16 be -- I'll be happy to -- I will be happy to check and
17 get it to you if I have them.

18 Q Thank you.

19 MR. CHESTER: Okay. Hang on a second.

20 THE WITNESS: Okay.

21 MR. CHESTER: Do not give out my
22 client's tax returns without getting clearance from me
23 and the court.

24 THE WITNESS: Okay. All right.

25 But now, any document requests you

1 would have like that would go through him and he'll
2 call me and say okay; right?

3 MR. CHESTER: It needs to. Yes.

4 THE WITNESS: Okay.

5 BY MR. MILLER:

6 Q What about emails? Did you search for
7 emails?

8 A I did. Oh, that -- that's how I got Kelly
9 Dawson's email -- emailing. Yeah. I mean, I
10 didn't -- I didn't find any.

11 Q So you searched emails?

12 A Mm-hmm.

13 Q Is that a yes?

14 A Yes. That's a yes.

15 Q What email account did you search?

16 A Mine, L-P dot accounting.

17 Q L-P --

18 A P dot accounting at Hotmail.

19 Q You have any other email addresses?

20 A No.

21 Q Did you have a work email while you were
22 employed with LN?

23 A Yeah. Yeah.

24 Q What was that email address? Do you recall?

25 A No. No. And it was on -- it was on the

1 desktop. And I never accessed it or couldn't begin to
2 tell you what a password would be.

3 Q Since leaving employment of LN, have you
4 accessed that email account that you had as an
5 employee of LN?

6 A No.

7 Q Is that a no?

8 A No.

9 Q Any correspondence that you had as an
10 employee of LN related to LN business, would you have
11 used that LN email account and/or your L-P dot
12 accounting Hotmail account?

13 A It would've been one or the other. But I
14 tried to keep everything with LN on the LN.

15 Q Understood. But you'll admit there were
16 occasions, whether intentionally or inadvertently, you
17 used --

18 A It's -- it's possible. Oh, I'm sorry. Go
19 ahead.

20 Q -- you utilized your L-P dot accounting at
21 Hotmail dot com account?

22 A It's possible. Yes.

23 Q With respect to your search of emails, and
24 specifically your L-P dot accounting at Hotmail dot
25 com address, what specific terms did you use?

1 A I think I just -- I think I put in Clay
2 Ellis and Lewis Nichols.

3 Q So you searched for emails to and from Clay
4 Ellis, and you searched for emails to and from Lewis
5 Nichols?

6 A I think so. Yes. Yeah.

7 Q Did you search for emails from anyone else?

8 A I don't think so. No.

9 Q Did you search emails to anyone else?

10 A No.

11 Q You testified earlier that there was an
12 initial single page write-up that you provided to
13 Mr. Dawson. Do you recall that?

14 A Yes.

15 Q Did you search for that?

16 A Yes, I did. I searched all over for that.

17 Q And I want to know specifically what you
18 searched for when you made those efforts.

19 A I searched emails. I searched -- I searched
20 my -- my Word documents. That's it. Email and the
21 Word documents.

22 Q All right. So do you have a folder of Word
23 documents that you went in and looked at?

24 A Yeah.

25 Q Okay. And then you also searched your email

1 account?

2 A Correct.

3 Q And what specific search terms did you use
4 when you were looking for this correspondence with you
5 and Mr. Dawson related to a document that you
6 submitted to him?

7 A Search terms or date driven. I saw the date
8 on the -- well, the date that I -- I tried to get
9 ahold of -- that 9/6 date was on the -- on the
10 declaration. I said, "Well, I had to have sent it to
11 him sometime around then." And then I -- and then I
12 looked back into '22. And I just didn't see it.

13 Q All right. So the declaration you're
14 referring to, which has been marked as an exhibit, was
15 signed September the 6th of 2022?

16 A Correct.

17 Q And your search terms were date driven, as
18 you testified?

19 A Right.

20 Q And you were looking for the initial draft
21 of the document that you prepared?

22 A Right. So I backed it -- and I knew -- I
23 knew a pretty good period of time had passed. So I
24 went back.

25 Q How far did you go back?

1 A Into mid-'20 -- mid to late '20, '21.

2 Q So not a full year?

3 A Not -- not a full year, but close.

4 Q All right. So you've sent the parameters
5 with respect to the dates that you were searching.
6 What other search terms, if any, did you use?

7 A I think I -- the only one I used was
8 affidavit, and nothing came up with affidavit.

9 Q Did you search declaration?

10 A No.

11 Q Did you search for Kelly Dawson's email?

12 A I -- I did a search for Kelly Dawson, yeah,
13 and nothing.

14 Q Did you do a search in your email for emails
15 that you sent to Kelly Dawson?

16 A Yes. It's -- it's the same search. It'll
17 pull up anything to or from.

18 Q And so your testimony is that something that
19 you sent to Kelly Dawson from late 2021 through
20 September 6th of 2022, you were not able to locate?

21 A Correct.

22 Q You also searched for Word documents;
23 correct?

24 A Yes. Yes.

25 Q Because whatever it is that you prepared,

1 you created it in Word?

2 A Yes.

3 Q And you created it on your computer?

4 A Yes.

5 Q Is that a laptop or a desktop?

6 A Laptop.

7 Q Is that at your home?

8 A Yes.

9 Q Is that your work computer?

10 A Yes.

11 Q Same one that you were using back in 2021
12 and '22?

13 A That's a good question. I don't know. It
14 could be, but I -- I had gotten one. Not since then,
15 but right around that time. Yeah.

16 Q All right. If you've since gotten a new
17 computer, did you throw away the old one?

18 A No, it's sitting up in a closet.

19 Q So you still have it?

20 A Yeah.

21 Q Did you search that computer for your Word
22 documents?

23 A No.

24 Q Are you saying that it may be on that
25 computer?

1 A It's possible, not likely.

2 Q And is that a laptop?

3 A Yes.

4 Q Okay. And that email that's up in the
5 closet -- or excuse me. Strike that. The computer
6 that's up in the closet, the laptop, where it's
7 possible this document resides, what kind of computer
8 is that?

9 A That would be a Dell -- PC.

10 Q All right. And the laptop that you're
11 currently using, what kind of computer is that?

12 A Same. Dell.

13 Q And is it fair for me to assume that you did
14 not go search this old computer for any documents
15 related to this case?

16 A I did not.

17 Q The folder that you create where you save
18 your Word documents, do you keep those documents
19 within that folder forever or do you have some sort of
20 policy where you go through and delete items?

21 A I don't have a policy.

22 Q So if you created this document, it should
23 be on one of the two computers?

24 A Yes, but I couldn't find it.

25 Q There's no other computers that it should be

1 on; correct?

2 A No.

3 Q And the document you're referring to was a
4 single page Word document that you emailed to
5 Mr. Dawson?

6 A Yes.

7 Q And was there any other email communication
8 between you and Mr. Dawson related to the initial
9 draft that you said you prepared?

10 A I think we saw -- the emails we saw earlier,
11 you know, where he -- he asks had I finished it up.
12 And yeah.

13 Q You're talking about the emails from
14 September of '22?

15 A Well, it -- it's one of the exhibits. Oh,
16 I'm sorry. No. These are -- these are texts. These
17 are texts.

18 Q Well, let's look at --

19 A Exhibit 7?

20 Q Exhibit 8, Exhibit 9 from September the 2nd
21 of 2022 and September the 5th of 2022. Are those the
22 emails you're referring to?

23 A Yes.

24 Q Okay. Let me ask my question again and make
25 sure we're on the same page.

1 A Okay.

2 Q Outside of these emails that we're seeing
3 here today from September of 2022, was there any other
4 email correspondence back and forth between you and
5 Mr. Dawson related to this initial draft you've
6 described?

7 A I don't think so.

8 Q Okay. Was there any phone call around the
9 time that you sent this initial draft with Mr. Dawson?

10 A I don't remember.

11 Q You mentioned that you prepared this draft
12 affidavit or declaration that you've not located
13 related to claims of libel or slander. Did I
14 understand your testimony?

15 A Yeah. Well, that -- that's what he -- and
16 that was in response -- when he -- when he first
17 contacted me.

18 Q And so when he first contacted you, it had
19 to be sometime in 2021 or at least --

20 A Yes. Yes, that's fair. Yeah.

21 Q Because you, as I understand your testimony,
22 prepared this affidavit or this one-page document in
23 response to that call?

24 A Yes. And then a long time went by and I
25 didn't hear anything and -- yeah, until the '22.

1 Q Prior to getting that call from Mr. Dawson,
2 had you ever talked with him before?

3 A At the office. He -- he'd been there a
4 couple of times.

5 Q In relation to what?

6 A He was working with -- with management to
7 see what he could do to get Blue Cross Blue Shield to,
8 you know, turn back on the spigot, start paying again.

9 Q Related to business?

10 A Bloodwork. Yes. Yes.

11 Q All right. What information did you have
12 related to claims of libel that may or may not exist
13 between Mr. Dawson and Mr. Ellis?

14 A None. None. He -- well, no, he -- he said
15 on the -- on the phone that -- that Clay was trying to
16 ruin -- ruin him professionally, and was saying things
17 that weren't true, or something to that effect. And
18 he -- and he was going to sue him for defamation or
19 libel. That's -- and that's the extent of it.

20 Q So what you're telling us is that Mr. Dawson
21 contacted you sometime in late 2021 --

22 A I think, yeah.

23 Q -- told you that Mr. Ellis was trying to
24 ruin his career, and that Mr. Dawson wanted to
25 prosecute some sort of defamation or libel claim

1 against him?

2 A Correct.

3 Q And although you did not have any
4 information to support that, you prepared a one-page
5 summary and sent it to him?

6 A He wanted to know what my -- what my
7 relation -- I mean, what I did within the office.
8 Yeah. It was --

9 Q Well, did you put any information in there
10 about how Mr. Ellis was making false statements about
11 Mr. Dawson, trying to ruin his career?

12 A No. No. I didn't have any -- any -- I
13 didn't know anything about it 'til he called me.

14 Q So the call from Mr. Dawson to you in late
15 September of 2021 is along the lines of: "Mr. Ellis
16 is making false statements about me. I would like you
17 to put together an affidavit to support what I'm
18 trying to do here"?

19 A He wanted me to put together an affidavit of
20 what my role was.

21 Q Your role within the company?

22 A Within the company. Yes.

23 Q Did it have anything to do with the false
24 statements that Mr. Dawson said were being made by
25 Mr. Ellis?

1 A No. Actually, I -- I didn't -- I didn't
2 really think much of it at the time because it's like:
3 "What does this have to -- you know, what does this
4 have to do with me? I don't know anything about this,
5 you know."

6 Q Did you sign that document you sent to him?

7 A Probably not. Just, you know: "Here.
8 Here's what you wanted." And --

9 Q And then you heard nothing else about that
10 document until September of 2022?

11 A Right.

12 Q Lewis Nichols, I know you helped him out
13 with an IRS audit in 2019. Was he a client of yours?

14 A Not at that time. This was for a prior
15 year, a return I'd done.

16 Q Okay. What year was that? Do you recall?

17 A No, I don't.

18 Q So it was some year prior to 2019?

19 A Yeah. Yeah. It probably -- chances are
20 it'd be 2017.

21 Q And he was getting audited by the IRS, and
22 you were helping him?

23 A Correct.

24 Q And he was paying you?

25 A Yes.

1 Q So was he a client of yours?

2 A Well, yes, for that. Yeah.

3 Q And then when did you delete his number from
4 your cell phone?

5 A It would've been probably -- probably '21,
6 '22.

7 Q Do you routinely go through your phone and
8 delete former clients from your cell phone?

9 A I do if they're former clients.

10 Q You don't ever expect or want any business
11 from them again?

12 A I really didn't expect to hear from Lewis.

13 Q Did you delete any and all text messages
14 that you had when you deleted his cell phone number?

15 A I -- I don't know. I -- I think when you
16 delete the phone number, it just takes everything with
17 it. But I don't know, though.

18 Q All right. So when you deleted Mr. Ellis's
19 number from your phone and Mr. Cortez's number from
20 your phone, in your mind, any text messages with them
21 would've also been deleted?

22 A I think so. I mean, I -- I can do a search
23 for Lewis Nichols now and see if there's any texts
24 there. I don't think there is. I don't know.

25 Q Well, if he's not in your phone, how would

1 you search for him?

2 A Well, you -- you can do a search on the text
3 page, not the phone page. Just do search for --

4 Q Did you understand my question, Mr. Palmer?

5 A Ask -- ask me again, please.

6 Q If you don't have his name and number saved
7 in your phone, my question is, how are you going to
8 search for texts to and from him?

9 A Well, just you -- well, you had just asked
10 me if by deleting the number, did I also delete the
11 texts. Well, and I don't know. But I do now. No
12 results.

13 Q Do you use social media.

14 A I do Facebook occasionally.

15 Q Have you ever corresponded with Lewis
16 Nichols, MJ Cortez, or Clay Ellis via social media?

17 A No.

18 Q Do you use WhatsApp or Snapchat?

19 A No.

20 Q Do you even know what those are?

21 A I -- I know they exist.

22 Q Are they on your cell phone?

23 A No.

24 Q Was Lewis Nichols audited in relation to
25 some personal tax return that you prepared?

1 A Yes, it was his personal.

2 Q Outside of your Hotmail account that we
3 talked about, your email account that you had while
4 you were at LN, did you, within the past ten years,
5 have any other email accounts?

6 A No.

7 Q In a general fashion, can you tell me, with
8 respect to the relationship between LN and Allied,
9 those companies, what did they do in terms of, you
10 know, getting test results and then having them
11 delivered to hospitals for testing?

12 A Ask me one more time. I want to make
13 sure --

14 Q Sure. And I'll break it up to make it
15 easier.

16 A Okay.

17 Q With respect to --

18 MR. CHESTER: And can you also specify
19 which Allied company you're referring to, please?

20 MR. MILLER: Will do. Thank you.

21 BY MR. MILLER:

22 Q With respect to LN Professional Agreement
23 and its agreement with Allied Management, what role in
24 that relationship and that services agreement did LN
25 Professional Management play?

1 A Well, we -- we collected revenues and did
2 the reports and submitted remittances to them on a
3 monthly basis.

4 Q Administrative, would you consider it?

5 A Yeah. Yeah.

6 Q What role in that relationship did either
7 Allied Lab Solutions Management or Allied Lab
8 Solutions play?

9 A I'm not sure what you're asking. I'm sorry.
10 Go ahead.

11 Q Sure. With respect to the service agreement
12 between LN Professional Management and Allied Lab
13 Solutions Management, with respect to that
14 relationship, I'm asking about the Allied side now.
15 What did they do?

16 A I don't know.

17 Q You just knew what LN did?

18 A LN did, yeah. Yeah, it was all outward
19 bound.

20 Q Did LN have any role in actually obtaining
21 the blood samples from patients, if you know?

22 A LN, our involvement started when the courier
23 would go pick up blood samples to -- we didn't have
24 any role -- the doctor then would order the test.

25 Q LN never got involved up until a point in

1 time when blood had been drawn and put into a vial,
2 ready for a courier pickup?

3 A Correct.

4 Q We talked about overhead earlier in general,
5 with respect to the spreadsheets. Would that include
6 things like rent, electricity, utilities?

7 A Yes.

8 Q Any other broad categories of overhead that
9 would be included within that?

10 A I don't know off hand if payroll's included
11 in that or not.

12 Q So personnel expenses for LN?

13 A Correct.

14 Q Did it include payroll for any other
15 individuals employed by any other organization?

16 A No.

17 Q All right. So payroll may or may not have
18 been included?

19 A Correct.

20 Q Any other categories of overhead outside of
21 rent, utilities?

22 A I -- I don't know if anything else. I don't
23 know.

24 Q As the bookkeeper, did you review expenses,
25 review bills, invoices, things like that that were

1 charged to overhead?

2 A Yes. I mean, I -- I accounted for them.
3 Now if -- yeah.

4 Q But after several months of operating, you
5 guys had a pretty basic understanding as to the
6 approximate about of overhead?

7 A Right. Right.

8 Q So it's not something you did precisely
9 every month?

10 A Correct.

11 Q And just to be clear, outside of rent,
12 utilities, office space, are there any other things
13 that were included in overhead that were, you know,
14 major contributors?

15 A I don't know.

16 Q Did somebody provide you with the expenses
17 and charges that should be included in the overhead,
18 or how did you ascertain what those were?

19 A I don't remember precisely at all now. It's
20 just a guess. We probably would go back to the
21 service agreement.

22 Q Those overhead charges and expenses, were
23 those put into QuickBooks?

24 A Yes.

25 Q And were they categorized as overhead in

1 QuickBooks?

2 A Yes. Well, it's categorized as rent,
3 utilities, yeah.

4 Q And the summation of all those is what
5 you're referring to as overhead?

6 A Yeah. Right. Yes.

7 Q And as far as you recall, you don't remember
8 if payroll was included within that --

9 A I don't -- I don't remember.

10 Q All right. Let's look at your declaration,
11 which I know you talked with Mr. Chester about, the
12 one from September of 2022. It's been marked as
13 Exhibit Number --

14 MR. HOBBS: 5.

15 MR. MILLER: 5. Thank you, Mr. Hobbs.

16 BY MR. MILLER:

17 Q You got it there, Mr. Palmer?

18 A I do.

19 Q Okay. You talked with Mr. Chester about
20 this previously. My understanding from your testimony
21 is, you drafted about a page and a half, roughly, of
22 this, and then Mr. Dawson took liberty and drafted the
23 rest of it without your knowledge?

24 MR. CHESTER: Object to the form.

25 Misstates the testimony.

1 BY MR. MILLER:

2 Q And if I've misstated your testimony,
3 Mr. Palmer, I ask that you correct anything that I
4 misstated.

5 A Yeah, I -- it's a page, page and a half.
6 And -- and yeah. Like I said, a lot of this, he -- he
7 filled in -- or he filled in or supplemented. And
8 there was no consultation with me.

9 Q Okay. So at least with respect -- and I
10 understand you say page, page and a half. With
11 respect to the first page that we see on Exhibit
12 Number 5, you prepared that?

13 A Parts.

14 Q All right. I understand, based on some
15 email communication that we can look at that was an
16 exhibit, before signing Exhibit Number 5, you reviewed
17 it and noted a spelling error?

18 A Correct. This one on the first page.

19 Q Okay. So the circle that we see that's a
20 little bit faded out in black there circling
21 Mr. Ellis's last name, you did that?

22 A Yes, that's my circle.

23 Q Okay. And you did that before you signed
24 this declaration under oath?

25 A Well, at the same time. I mean, in the same

1 sitting.

2 Q And you'll agree with me that that spelling
3 error that you noted was in the same sentence as, "Con
4 conspirator to further Clay Ellis's scheme to defraud
5 the Allied company shareholders"? You'll agree with
6 me that your --

7 A It is. There it is. Right there.

8 Q When you corrected that spelling error, did
9 you make any attempts to notify Mr. Dawson that the
10 remainder of that sentence was absolutely false?

11 A No.

12 Q And you realized when you were signing this
13 that you'd be subject to perjury if you made false
14 statements?

15 A Yes.

16 Q And so after reviewing at least up to that
17 sentence, did you review any other pages of this
18 declaration before you signed it?

19 A I mean, my process was -- yeah, just -- I
20 mean, I just --

21 Q Glanced at it?

22 A Glanced at it. Yeah.

23 Q But you'll agree with me that every
24 paragraph in this declaration that you glanced at
25 discusses Clay Ellis and how he was skimming money or

1 fraudulently diverting money from the Allied
2 companies?

3 A I do know that I've read it in depth, but I
4 just -- yeah.

5 Q And when you skimmed this before signing
6 it --

7 MR. CHESTER: Hang on. He wasn't
8 finished with his answer.

9 BY MR. MILLER:

10 Q Were you finished, Mr. Palmer?

11 A Well, I mean, I -- yeah, "Clay Ellis
12 specifically directed me to -- checks to the member
13 Allied" -- it's like, "Yeah, okay," you know. It
14 was -- it was that kind of -- yeah.

15 Q Sure. You'll agree with me that every
16 single paragraph in here paints Mr. Ellis in a
17 negative light with respect to his dealings with
18 Allied?

19 A Yes.

20 Q And despite that, when you glanced over it
21 and signed it, you never thought to tell Mr. Dawson
22 that, "Hey, this is not true"?

23 A No.

24 Q And certainly when you sent him an email on
25 September the 6th of 2022 sending the declaration

1 back, you never said in your email, "Mr. Dawson, I'm
2 going to sign this, but some of this isn't true"?

3 A No.

4 Q What I said is correct? You never told
5 Mr. Dawson in that --

6 A Oh, yeah. Right. Correct.

7 Q If you'll take a look at Exhibits Number 8
8 and 9, these are the emails forwarding the
9 declarations.

10 A Okay.

11 Q Looking at the email marked as Exhibit
12 Number 8, you'll see it was sent from Mr. Dawson to
13 you at your Hotmail account on September the 2nd of
14 2022?

15 A Mm-hmm.

16 Q Is that true?

17 A Yes.

18 Q Mr. Dawson tells you, "I went off the notes
19 I took from our call last week." Does he not?

20 A Yes, he did.

21 Q And do you dispute having a call with
22 Mr. Dawson a week prior to this email?

23 A No.

24 Q Did Mr. Dawson in this email offer to speak
25 with you about the declaration if you had any

1 questions?

2 A No. I don't remember that at all.

3 Q Well, let's look at the email, Exhibit
4 Number 8. Do you see where Mr. Dawson says, "I can
5 call you to go over it if you'd like." Do you see
6 that?

7 A Yes.

8 Q Did you request a call with Mr. Dawson to go
9 over the contents of the declaration?

10 A No.

11 Q Did you ever tell Mr. Dawson that this
12 declaration is not consistent with the call you had
13 the week before?

14 A No.

15 Q Did you ever text Mr. Dawson at the number
16 he provided you there in this email that this
17 affidavit is inaccurate and not consistent with the
18 call from the week prior?

19 A No.

20 Q All right. Let's look at Exhibit Number 9.
21 This is the September 5, 2022, email from Mr. Dawson
22 to you with, it looks to be, an updated version of
23 that prior declaration that we just looked at; true?

24 A Appears to be, yes.

25 Q Does Mr. Dawson tell you that he made a

1 couple of changes to the declaration?

2 A Yes.

3 Q Did you ever tell him that you disagreed
4 with any of the changes made?

5 A No.

6 Q Did Mr. Dawson ask you to let him know after
7 you had a chance to review it?

8 A Well, yeah, right there.

9 Q Did you ever tell Mr. Dawson that you just
10 skimmed the declaration and never reviewed it?

11 A I didn't even tell him that much.

12 Q In fact, I'm looking for the email now. In
13 fact, you sent it back to him on September the 6th,
14 2022, and just said, "Signed, copy attached," or
15 something along those lines?

16 A Right.

17 Q Is that a yes?

18 A Yes.

19 Q Oh, I believe you also told him that you had
20 noted a spelling error.

21 A Okay.

22 Q Is that true?

23 A I think so. Yes. I believe I did.

24 Q Actually, Mr. Palmer, I'd like you to look
25 at Exhibit Number 7. This is the text messages.

1 A Okay.

2 Q You'll agree with me that, on September the
3 5th of 2022, Mr. Dawson texted you about the
4 declaration?

5 A Yes.

6 Q Did he not ask for your thoughts on the
7 contents of the declaration in this text?

8 A No. He asked me what -- what's on here.
9 I -- when I got it, I kind of stuck it aside. Didn't
10 give it a second thought. Then he texted me this, so
11 I -- "Oh, okay," just signed it, sent it back to him.

12 MR. MILLER: Objection. Non-
13 responsive.

14 BY MR. MILLER:

15 Q In this text from September the 5th of 2022
16 at 4:20 to you from Mr. Dawson, does Mr. Dawson not
17 ask you if you had any thoughts on the declaration he
18 had sent you?

19 A What date again?

20 Q September the 5th of 2022 at the top.

21 A No -- no, he did. No, it's in the text.
22 Yes.

23 Q Right. He asked you for your thoughts about
24 the declaration?

25 A Right. And --

1 Q Your response was --

2 A No response.

3 Q Well, let's look down.

4 A Well, "It's on the way. Typo page 1." Yes.

5 Q Let me get my question out.

6 A Oh, sorry.

7 Q In response to that text, the next day is
8 September the 6th of 2022 at 8:46 in the morning, your
9 response was: "It's on the way. One type on page 1";
10 correct?

11 A Correct.

12 Q And he responds to you, "Thank you," next
13 page; true?

14 A Correct.

15 Q So not even in this text message, outside of
16 telling him that there was a type, did you tell
17 Mr. Dawson there was anything untrue or false or
18 inconsistent in the declaration?

19 A Correct.

20 Q When did you first learn that you signed
21 something that you testified today was essentially a
22 hundred percent not true?

23 A When I got the subpoena.

24 Q And when was that?

25 A I don't know. What's the day of the

1 subpoena? Where's the delivered copy. It's in here
2 somewhere. Oh, here it is. February 1, '24.

3 Q Was that the first day, February the 1st of
4 2024 when you got that subpoena, that you realized
5 that you signed something that was, essentially,
6 completely untrue?

7 MR. CHESTER: Objection. Asked and
8 answered.

9 THE WITNESS: And I would say yes.

10 BY MR. MILLER:

11 Q At no point prior to February the 1st of
12 2024, did you know that you signed something that
13 you're saying now was completely untrue?

14 A Correct.

15 Q Let's look at Exhibit Number 10. You've
16 testified previously today that you understand the
17 ramifications of perjury?

18 A Yes.

19 Q And you understood that you were signing the
20 declaration that we've looked at under the penalty of
21 perjury?

22 A Yes.

23 Q And according to your testimony today, for
24 the first time ever on February 1st of 2024, you
25 learned that you had committed perjury?

1 A Yes.

2 Q But you wait 20 days to send Mr. Dawson an
3 email asking for your original document --

4 A Yes. Yeah. I -- I tried to find it. I
5 tried to find it, couldn't find it. So yeah. So
6 yeah.

7 Q Did you call Mr. Dawson when you realized
8 that you signed something that was completely untrue?

9 A I don't know.

10 Q Well, we can --

11 A I -- I can look. No, I did not call. I
12 don't -- I don't have his phone number.

13 Q Did you call anyone, reach out to anyone
14 between February 1, 2024, when you realized you signed
15 something that was untrue and committed perjury, and
16 when you sent this email to Mr. Dawson on February
17 21st of 2024?

18 A No, I didn't call anyone?

19 Q Didn't call anybody?

20 A I didn't contact -- yeah. No.

21 Q Knowing that you had committed perjury?

22 A Correct.

23 Q In the email that you sent to Mr. Dawson on
24 February the 21st of 2024, you don't tell him in there
25 that he took liberty with your declaration. Do you?

1 A No.

2 Q Is there anything in writing to anyone where
3 you allege that Kelly Dawson essentially drafted a
4 declaration that was a hundred percent untrue, and you
5 just signed it and didn't even care to look at it?

6 A There's nothing in writing. No.

7 Q Who's the first person you told after
8 February 1st of 2024 that you essentially committed
9 perjury?

10 A Don't know that I've told anyone.

11 Q Outside of an email from you to Mr. Dawson
12 some point in late 2021 with your original write-up
13 that you prepared, are you aware of any other emails
14 exchanged between you and Mr. Dawson related to any
15 affidavits or declarations other than what we see in
16 the exhibits we just looked at?

17 A No.

18 Q Has anybody threatened you to change your
19 testimony from your declaration?

20 A No.

21 Q Has anybody promised you anything if you
22 will change your testimony?

23 A No.

24 Q Has anybody threatened to sue you for
25 defamation, libel, slander, anything like that related

1 to the declaration that you signed in September of
2 2022?

3 A No.

4 Q Back in September 2022 when you signed that
5 declaration, were you trying to hurt Mr. Ellis in some
6 way?

7 A No.

8 Q What was the issue between you and Mr. Ellis
9 in your relationship? Why weren't y'all on good terms
10 when you --

11 MR. CHESTER: Objection. Asked and
12 answered.

13 BY MR. MILLER:

14 Q Why weren't y'all on good terms when you
15 left?

16 A We were just different personalities.

17 Q There's nothing outside of you guys just
18 have different personalities?

19 A No. No, nothing else outside of that.

20 Q Yeah, let me take it back from you,
21 Mr. Palmer. I'm going to mark it as an exhibit. I'll
22 give you that one.

23 A Thank you.

24 MR. MILLER: I'm not going to mark that
25 first page. I'm actually going to remove that first

1 page.

2 BY MR. MILLER:

3 Q Mr. Palmer, let me hand you what I've marked
4 as Exhibit Number 12.

5 (Exhibit 12 was marked for
6 identification.)

7 A Okay.

8 Q I'm going to give you time to read whatever
9 you need to do. But just generally looking at this
10 document, is this something you've ever seen before?

11 A I think I've seen this.

12 Q Is this the service agreement between LN
13 Professional Management and Allied Lab Solutions
14 Management?

15 A Yes.

16 Q Is this something that you reviewed when you
17 set up the spreadsheets we discussed earlier?

18 A I believe it is. I'm looking for the --

19 Q Feel free to read as much as you want, but
20 if you go to the last page, that may be the portion
21 you're looking for.

22 A Thank you. This just -- the rest is just
23 outlining rights and responsibilities basically.

24 Q With respect to Exhibit 12 --

25 A Yes. Okay. Let me see.

1 Q -- when you prepared the spreadsheets -- or
2 I guess, let me ask it this way. When you prepared
3 the initial spreadsheet with the baked-in formulas,
4 did you utilize Exhibit B from Exhibit 12, at least in
5 part, in doing the calculations?

6 A Yeah, I -- okay. Go ahead. What was the
7 question?

8 Q Did you utilize this document, Exhibit B to
9 Exhibit --

10 A In part. Yeah, in part --

11 Q And I'm not trying to fuss, but let me
12 finish the question.

13 A Oh, I'm sorry. Go ahead.

14 Q With respect to the spreadsheet we talked
15 about earlier that had the formulas baked in for the
16 revenue share, did you utilize Exhibit B in part in
17 creating those formulas?

18 A Yes.

19 Q Okay. What portion of this Exhibit B was
20 baked into the Excel spreadsheet?

21 A Well, it would the 40 percent of net
22 collected revenues and the second paragraph, minus the
23 aggregate cost -- aggregate of cost of goods sold.

24 Q All right. Let's --

25 A And that was fleshed out. It was fleshed

1 out, I think, by Lewis and Clay. So what -- what that
2 actually meant.

3 Q When you say it was fleshed or that was
4 fleshed out by Lewis and Clay as to what that meant,
5 what are you talking about?

6 A Well, here, it -- it just -- it says, "Minus
7 the aggregate of cost of goods sold -- of cost of
8 goods sold of such services and products." That
9 basically was the beginning of, "Okay, well, what's --
10 what's our cost of good, our overhead?"

11 Q So when you say that's something Clay and
12 Lewis hashed out, you're referring to the cost of
13 goods sold?

14 A Yes. And I believe in the -- I've been
15 calling it overhead. Yeah.

16 Q So in your spreadsheet, what you're terming
17 as overhead, it's your understanding that is referring
18 to cost of goods sold?

19 A I believe so. Yes.

20 Q Okay. And with respect to cost of goods
21 sold, we're looking at things like you described
22 earlier, rent, utilities?

23 A Rent, utilities, cost of couriers would
24 probably be included. And again, I don't know whether
25 or not payroll was included. I don't know.

1 Q Is there any other document or agreement
2 that further defines cost of goods sold?

3 A Not that I'm aware of.

4 Q When you say Clay and Lewis "hashed it out,"
5 you're saying they, themselves, determined what would
6 be included in the cost of goods sold?

7 A Well, when they fleshed it out, we just --
8 we got together and this was what -- this is what, you
9 know -- Lewis understands what -- what, you know,
10 the -- the details of the agreement. And so he
11 relayed that to me.

12 Q Okay. And I guess however they defined it,
13 it didn't really matter, because after a few months,
14 you guys determined what the "cost of goods sold"
15 would be, and that amount was the overhead amount?

16 A Yes. Yes. Yeah, that -- that's fair.
17 Yeah.

18 Q Okay. And so in other words, the "cost of
19 goods sold," based on your own testimony and how this
20 spreadsheet worked, didn't fluctuate based on the
21 number of tests evaluated, because it was a fixed
22 price?

23 A Well, and most of our costs were fixed.

24 Q So you'll agree with me? In other words,
25 you guys were able to use a fixed overhead number in

1 this Excel spreadsheet because you guys realized what
2 those costs of goods sold over time were going to be
3 didn't fluctuate based on the number of tests
4 performed?

5 A Correct. Our costs were fixed. We did --
6 we didn't have to hire more people because we had more
7 samples. Same number of people. Same number in the
8 billing department. Everything, you know, was just --

9 Q Now with respect to other items included --
10 strike that. With respect to other information that
11 was baked into the formula, distributions to Allied
12 and their shareholders, where'd you get that
13 information?

14 A Well, distribution, as it says here, was to
15 be 40 percent -- 40 percent of the net collected
16 revenues.

17 Q So you just knew based on this that 40
18 percent of the net collected revenues were going to go
19 to Allied?

20 A Correct. Yeah.

21 Q Did you have any involvement in deciding how
22 that 40 percent was then divided among the various
23 Allied shareholders?

24 A No.

25 Q Did your spreadsheet that we're talking

1 about, the monthly ones that you did every month, did
2 it specify how much of the 40 percent net collected
3 revenues that went to Allied, how it was divided among
4 the Allied shareholders?

5 A No. It was -- again, I cut a check to
6 Allied, and --

7 Q What Allied did with the money after it got
8 it, you weren't involved in that?

9 A Correct. Yeah.

10 Q In other words, you didn't prepare
11 spreadsheets about how Allied divided its funds once
12 it got its 40 percent?

13 A Maybe. Because I don't remember who all was
14 involved in Allied. On some of them, it was just --
15 just one entity. On some of them, it was -- it was
16 different doctor groups. And three or four doctor
17 groups could be included in one of the entities. And
18 they would have -- and they would have that level of
19 detail.

20 Q When you say included in one of the
21 entities, are you referring to one of the LN partner
22 entities or one of the Allied shareholders?

23 A Well, one -- you know, Allied -- like I
24 said, we wrote half a dozen checks. And some of them
25 had -- had granularity at the doctor level. And I

1 think some of them were just aggregated.

2 Q Not to beat a dead horse, but on the
3 spreadsheets that you were preparing, did it further
4 break down that 40 percent that went to Allied to the
5 various Allied shareholders?

6 A The check would not. The check would go to
7 Allied, and it would be -- and with it, there was an
8 associated breakdown for Allied to do what they do.

9 Q Understood. But that spreadsheet that went
10 with the 40 percent check that was a single check,
11 that spreadsheet that went with it, those formulas as
12 to how that 40 percent was broken down was baked into
13 that spreadsheet already?

14 A Yes. Yes.

15 Q Mr. Palmer, I'm going to mark as Exhibit
16 13 --

17 A Anybody got a paper clip?

18 Q I can get you one. Why don't you throw that
19 on there.

20 A Yeah. Sure.

21 MR. MILLER: One for each of you.

22 MR. CHESTER: Thank you.

23 BY MR. MILLER:

24 Q All right, Mr. Palmer, let me hand you
25 Exhibit Number 13. There's a variety of spreadsheet

1 looking documents in here. Looking at the first page
2 here at the top, it says, "Allied One June Collection
3 Activity." Was this the spreadsheet that you were
4 preparing, or was this done by somebody else?

5 (Exhibit 13 was marked for
6 identification.)

7 A I prepared this.

8 Q Okay. And where is the breakdown to the
9 particular shareholders of Allied? Is that on the
10 next page?

11 A I don't know. Let's see. It appears to be.
12 Yes.

13 Q Okay. Was this a single spreadsheet that we
14 see here over two pages?

15 A This is what -- the spreadsheet monster
16 thing, it just -- this is the summary of it.

17 Q All right. And actually, it looks like it
18 may be over the first three pages, at least for the
19 June collection activity. Would you agree with me on
20 that?

21 A This -- this isn't familiar to me.

22 Q And when you say "this," if you look down at
23 the bottom right --

24 A Oh, I'm sorry. Page 2.

25 Q It's all right. When you look down at the

1 bottom right, there will be a number --

2 A 2.

3 Q 2?

4 A 2.

5 Q Defendants 2, that's not familiar to you?

6 A I don't remember this.

7 Q Is that something you prepared ever?

8 A I don't think -- no. No.

9 Q Well, let's clarify. So we're looking at
10 Exhibit Number 13, looking at the first page of this
11 exhibit, "June Collection Activity." That looks like
12 something you would prepare. Did I understand your
13 testimony correct?

14 A Yes. Yes.

15 Q Looking at the second page, "Allied One,"
16 it's got a list of various partners. That does not
17 look like something you would prepare?

18 A No.

19 Q All right. Let's look back to page number
20 1, Exhibit Number 13. We see under "June activity
21 totals," we see a bunch of description and a bunch of
22 numbers. What is all that referring to, "Total new
23 cases, collected cases, average collection"?

24 A These are cases that -- that we picked up
25 from -- picked up from the doctor's offices. And then

1 404 would be the collected cases.

2 Q Okay. So tell me the distinction between
3 "Total new cases received by billing department" and
4 "Collected cases."

5 A Well, you might have a -- you might pick up
6 a blood sample in January and get paid for it in
7 March.

8 Q All right. So what this is referring to is,
9 in June of unnamed year -- I don't see it anywhere --
10 there was a total of new cases, in other words, new
11 samples received, of 593. Is that the way to
12 interpret it?

13 A Yes.

14 Q With respect to collected cases, that means
15 cases that were actually paid?

16 A Yes.

17 Q In other words, the hospital that was doing
18 the testing got paid by the insurance carrier, and
19 then the hospital that did the testing paid MMP?

20 A Yes.

21 Q All right. And then the average collection
22 per case, what does that mean?

23 A Well, four oh -- it's just the average
24 collection on the 404 was \$2,873.45.

25 Q All right. So you take the total number

1 received from the hospital over the number of cases
2 that you were paid for, and you get an average?

3 A Yes. Yeah. Just an average.

4 Q And tell me what the "Average billed amount
5 per case" means?

6 A That's what -- what insurance would've been
7 billed for that test.

8 Q And then what's the "Patient responsibility
9 case"?

10 A Some of these -- sometimes they had -- they
11 had a patient -- a copay kind of thing.

12 Q All right. And so is the difference between
13 "Average collection case" and "Average billed case"
14 just the difference between what an insurance company
15 is willing to pay versus what it's charged by the
16 hospital?

17 A Yes.

18 Q "Gross income total," what is that referring
19 to?

20 A Well, gross income -- look at all, would be
21 404 times \$2,873.45.

22 Q So was that the amount of money based on
23 those collected cases that MMP would have received
24 from the hospitals?

25 A Yes.

1 Q Does this refer to all the hospitals that
2 were doing the testing in aggregate or is it broken
3 down by hospital?

4 A It would've been aggregate.

5 Q "Expenses, lab cost," what is that?

6 A That's our -- what the hospitals charged us.

7 Q Explain that to me. What does that mean?

8 A Well, we send them -- we send the -- the
9 labs -- or the samples to the labs -- the hospitals,
10 and they charge us X amount and send them that amount.

11 Q Okay. So the gross income, the 1,160,000
12 number we see, if I understand what you're saying,
13 that's not what MMP or LN received from the hospitals?

14 A Correct. That's correct.

15 Q That was the total revenue that the hospital
16 got, and they sent you that amount less its lab costs?

17 A Yeah, I think that's correct.

18 Q Okay. Was there some sort of itemization or
19 any sort of documentation that you would get from the
20 hospitals to substantiate what the lab costs were?

21 A It -- it came with -- yeah. I forget what
22 form it -- I mean, it came with the check. And I
23 forget exactly what it looked like. But yeah.

24 Q Okay. So in other words, you'd get
25 something -- and I'm simplifying -- from, let's say,

1 Knox County Hospital that says, "Here's your \$100 for
2 your five collected cases, but we had \$20 in expenses,
3 so you're only getting 100 of the 120 collected"?

4 A Yes. Yes.

5 Q Okay. And that was with every check that
6 you guys got from the hospitals?

7 A I believe so. Yeah.

8 Q All right. "Net income before
9 distribution," is that just the delta between gross
10 income and lab costs?

11 A Yes.

12 Q "Gross distributable income at 40 percent,"
13 is that \$385,000 40 percent of the net income before
14 distribution?

15 A Yes.

16 Q And that's how much would be transferred
17 before any other expenses to Allied?

18 A Well, there's a management fee and a Texas
19 franchise holdback, but --

20 Q Okay. Let's talk about those.

21 A And I'm --

22 Q So you would calculate the 40 percent gross
23 distributable to Allied based on the net income before
24 distribution; correct?

25 A One more time, please?

1 Q Sure. The 40 percent number is based on the
2 net income before distribution? Take the number --

3 A Yes. Yes.

4 Q Take that number, multiply it by 40 percent?

5 A By 40. Yeah.

6 Q But before you cut any check to Allied, are
7 you saying there was some additional monies withheld?

8 A Well, there's the management fee and the
9 Texas franchise holdback. That management fee might
10 be the allocable overhead.

11 Q All right. Let me ask you the question.
12 With respect to the management fee, do you know what
13 that is?

14 A That might be our allocable overhead.

15 Q Was Mr. Ellis not getting a 1 percent amount
16 from the net income before distribution for his
17 involvement in this? Is that not what that management
18 fee refers to?

19 A Well, it -- it could be.

20 Q You don't know?

21 A I don't know.

22 Q Well, who put in the management fee amount?

23 A Oh, I probably would have.

24 Q Well, is that a formula or do you know?

25 A Well, it -- on this, it appears to be a

1 formula, 1 percent.

2 Q In the service agreement, did you see
3 anything in there about a management fee, 1 percent?

4 A I didn't see one. No.

5 Q Where did that come from?

6 A I don't know.

7 Q You didn't put it in there?

8 A I would've been told to put it in there?

9 Q By whom?

10 A Probably Clay. I don't know.

11 Q Tell me about the Texas franchise tax
12 holdback. What is that?

13 A We were subject to franchise tax. And I
14 don't even remember anything about the franchise tax
15 holdback. This must've been a later year.

16 Q On any --

17 A But anyway, no, I -- I don't know.

18 Q On any reports that you prepared,
19 spreadsheets that you prepared, did you have a Texas
20 franchise tax holdback?

21 A No. We were accruing what we were going to
22 owe.

23 Q So you never held back \$5,000 from any
24 period during your tenure of completing these reports?

25 A Well, I mean, I probably prepared this. So

1 I did it here. But I can't tell you the origins of it
2 or anything like that.

3 Q The \$5,000, was that something done every
4 month?

5 A No. No. I don't think it was.

6 Q Why was it done in June of whatever year
7 this is versus any other month?

8 A I can't say for sure, but I would suspect we
9 had just filed our Texas franchise tax, and were
10 trying to recoup some -- some of the money from that.

11 Q The "Net distributable income amount," is
12 that the amount that was distributed to Allied?

13 A Yes.

14 Q Okay. I did not see on here anywhere
15 overhead that we discussed earlier.

16 A I don't either. Except say it could be
17 included in the lab cost.

18 Q Let me make sure I understand. What you're
19 saying is lab cost may refer to monies that the
20 hospital kept for their expenses in addition to --

21 A Our overhead.

22 Q -- a fixed amount of overhead that LN was
23 keeping monthly?

24 A Correct. Correct.

25 Q And there would be documentation of all

1 this, so we can see on a granular level how much was
2 hospital lab cost versus how much was LN overhead?

3 A Yes. I'm sure there are.

4 Q All right. The next page, I understood you
5 to say that you didn't have any involvement in
6 preparing that; true?

7 A Correct.

8 Q The fourth page looks like a funds transfer
9 to IBC Bank, I guess, in the amount of \$376, and that
10 matches the net distributable amount we saw on the
11 first page; true?

12 A Correct.

13 Q Okay. And IBC Bank, do you know who that
14 belonged to? Was that Allied Solution Management's
15 account? Or do you know?

16 A Well, looks like this was from -- well, this
17 says -- this says it's coming from Allied Lab
18 Solutions Management.

19 Q Okay. Let's go to page 7 of Exhibit Number
20 13.

21 A Okay.

22 Q We have similar information as we do on page
23 1 of Exhibit Number 13. Do we not?

24 A Yes.

25 Q Okay. I mean, we got "Total new cases,

1 collected cases," and the averages; right?

2 A Correct.

3 Q Under "Gross income," we see "Collections,"
4 but this time we see "Sum of prior month insurance
5 adjustments." Now I know this is December 2018 and
6 you were no longer there. Do you have any idea what
7 "Sum of prior month insurance adjustments means"?

8 A It could be claw-backs from the insurance
9 companies.

10 Q Explain what that means.

11 A I'm no -- I'm no insurance expert. But
12 basically, you know, they pay you \$100 and then
13 decide, "Well, we overpaid you 20," and they're
14 clawing back 20. Something along those lines.

15 Q Now would those be claw-backs of money that
16 LN had in its possession that the hospital was asking
17 back?

18 A I don't know.

19 Q Okay. Well, did you ever have this "Sum of
20 prior month insurance adjustments" on any spreadsheets
21 that you created?

22 A I don't remember any.

23 Q I know you don't remember. But if you did,
24 where would you have gotten the information to put
25 there?

1 A I would -- I would think from billing
2 somehow. Yeah.

3 Q I didn't hear you? From where?

4 A I would think from billing -- the billing
5 department somehow.

6 Q Let's go to -- I'm just picking one randomly
7 here. Let's go to the next page, page 8.

8 A Okay.

9 Q This time at the top right, under "Allied
10 One," it says, "CPRX." If you look at the next page,
11 it says, "VCM." "VWL" on the next page, page 10. Do
12 you have any idea what that means?

13 A I think VCM is Victory Medical.

14 Q And how about VWL?

15 A I don't know.

16 Q Okay. And I get it, this was outside of
17 your tenure at LN, but on any of the spreadsheets that
18 you had, did you have those acronyms or letters at the
19 top of any your spreadsheets like that?

20 A I don't think so.

21 Q All right. If you'll turn to page 34.

22 A Could've told me last page.

23 Q Oh, I didn't realize it was the last page.
24 I apologize.

25 A All right. Okay.

1 Q All right. You see at the top it says,
2 "Allied distribution reports will come to you via
3 email from Larry Palmer."

4 A I see it.

5 Q And your email address is Larry --

6 A There -- there it is. Larry at medical
7 management. Yeah.

8 Q Okay. So what does that mean, "Allied
9 distribution reports will come to you via email from
10 Larry"?

11 A The distribution reports were done as part
12 of this spreadsheet, and to divide it up -- this is
13 Allied. It would divide up the different Allied
14 components, shareholders, their -- their part. And --
15 and the sum total, if -- if we were talking about
16 June, the sum total of all the -- of all the different
17 distribution reports would tie back to that.

18 Q Are you saying that these distribution
19 reports are things that we see on pages 1, 2, and 3 of
20 this exhibit? Is that what it's referring to?

21 A I don't know about this middle page, but
22 it's -- it was all part of the same spreadsheet.

23 Q Okay. Fair enough. But I understand you to
24 say that, at least with respect to page 2 of this
25 Exhibit, Number 13, you didn't have anything to do

1 with the printing of that?

2 A Man, this is just not ringing a bell at all.

3 Q Okay. All right. Let's go back to page 34.

4 I don't want to call it a paragraph, but the kind of

5 next separated line is, "These are the numbers you

6 will use to plug into each of the MSO spreadsheets:

7 Allied One, Allied Two, et cetera." What's that mean?

8 A I forget what MSOs are.

9 Q Are they the service organizations?

10 A I -- okay.

11 Q I'm --

12 A Yeah. I -- I know -- medical service

13 organization. Probably.

14 Q The MSO spreadsheets, are those the
15 spreadsheets that we've been looking at, if you know?

16 A Well, I mean, I -- I did -- I did my
17 spreadsheets for Allied One, Allied Two, so.

18 Q And as far as you know, those are the MSO
19 spreadsheets?

20 A I think so. Yeah.

21 Q It's really hard to read. But the last sort
22 of paragraph is there. It says, "EROO Management."
23 Have you ever heard of that company?

24 A I'm looking for it.

25 Q It's very, very bottom. Well, not the very

1 bottom, but it's --

2 A Okay. Oh, that. I didn't see that at all.
3 I don't know what that's referring to.

4 Q What is EROO --

5 A E-R -- I don't -- I don't remember. It says
6 that -- it says it's entitled to a 10,000 a month
7 management fee. Is that what it says?

8 Q Let me read it. It says, "EROO," -- I'm
9 going to pronounce it EROO -- "Management is entitled
10 to \$10,000 per month management fee to be paid out of
11 the main Allied Management account." Is EROO
12 Management, do you know if that's Clay Ellis's
13 company?

14 A I don't remember EROO.

15 Q Was Clay Ellis in any of your review of the
16 agreements supposed to receive a \$10,000 per month
17 management fee?

18 A I don't remember anything about that.

19 Q It goes on to say, "The check may be
20 combined in the same envelope with Max Total Health
21 checks and delivered to Clay or Rachel Ellis." Do you
22 know who Rachel Ellis is?

23 A That's Clay's wife.

24 Q What is Max Total Health?

25 A Max Total, I think -- Max Total Health, I

1 think, had to do with the operation in Corpus Christi.
2 I think. Yeah.

3 Q And so do you know why Clay or his wife was
4 being delivered, at least according to that page, a
5 \$10,000 per month management fee for EROO Management?

6 A Well, he was -- well, it reads as though
7 that's basically an admin fee for -- an admin fee, you
8 know, of some sort.

9 Q For doing what?

10 A Well, he took care -- Clay's -- he was --
11 Clay's -- I think it was Clay's clinic, and they had a
12 doctor there. But the doctor didn't do, you know,
13 anything besides doctor.

14 Q Okay. On this Allied One document where
15 it's talking about the distributions on the MSOs, if
16 you know, why is this directing somebody to give Clay
17 or Rachel Ellis a \$10,000 per month management fee?

18 A I don't know.

19 Q Are you aware of any agreements, papers,
20 writings, or otherwise, where anyone has agreed that
21 Clay Ellis or EROO Management is entitled to a \$10,000
22 per month management fee?

23 A I'm not aware of anything.

24 Q Do you know if EROO Management or Clay Ellis
25 or Rachel Ellis was getting a \$10,000 per month

1 management fee at any point in time?

2 A I'm not aware of any of that.

3 Q Mr. Ellis, was he an employee of LN?

4 A Yes.

5 Q Did he receive, to your knowledge, a salary
6 through LN?

7 A Yes. Yes.

8 Q Was he a W-2 employee of LN?

9 A Yes.

10 Q Was MJ Cortez an employee of LN?

11 A Yes.

12 Q In addition to a partner?

13 A Yes.

14 Q Lewis Nichols, was he also an employee of
15 LN?

16 A Yes.

17 Q And all three of those individuals received
18 W-2s?

19 A All salaried. Yes.

20 Q Do you know anything about the transfer of
21 management of Allied Lab Solutions Management from
22 Clay Ellis to JP Forage?

23 A Ask me that again, please.

24 Q Sure. At one point in time, management of
25 Allied Solutions Management, Inc., was transferred

1 from Mr. Ellis to JP Forage. Do you know anything
2 about that?

3 A No.

4 Q Did you even know that before I just
5 mentioned it to you?

6 A No.

7 Q Never heard of that before?

8 A No. I can't remember that at all.

9 Q Did MMP ever pay, to your knowledge, EROO
10 Management?

11 A I don't remember.

12 Q Are you aware of any agreements between EROO
13 Management and MMP whereby EROO Management was
14 entitled to some form of payment?

15 A I don't remember.

16 Q Have you ever met JP Forage?

17 A Yes. I met him a couple of times. He came
18 by the office a couple of times. And I -- and we had
19 a Christmas party one year. I think he was there.

20 Q Outside of those meetings at the office
21 while you were an employee, have you talked with or
22 met with JP Forage?

23 A No.

24 Q Have you ever been told why Clay Ellis left
25 Allied Management?

1 A No.

2 MR. MILLER: All right. Let's take a
3 five-minute break.

4 THE VIDEOGRAPHER: The time is 3:40,
5 and we are now off the record.

6 (Off the record.)

7 THE VIDEOGRAPHER: We're back on the
8 record. The time is 3:48.

9 BY MR. MILLER:

10 Q Mr. Palmer, are you ready to continue?

11 A Yes.

12 Q Got a few more questions just to close up
13 here for today.

14 A Okay.

15 Q You talked about a clinic in Corpus that
16 Clay had some involvement in. Can you tell me about
17 that?

18 A I don't know a lot of details. I think -- I
19 think Clay owned the building that the doctor
20 practiced out of. That's -- yeah. And -- and then
21 took care of the office, you know -- you know, I'd say
22 the doctor was there, and everything else was handled,
23 you know -- the facility and all that was handled, I
24 think, by Clay.

25 Q In the --

1 A But I -- you know, I've never been there.
2 I've never, you know -- I didn't do any books for it
3 or anything.

4 Q In the declaration, which I believe is
5 Exhibit Number 5 if you need to look at it, on the
6 first page, paragraph three, there was a discussion
7 about MJ Cortez getting 10 percent of a certain money.
8 And then Clay Ellis, you know, would get 90 percent of
9 that money after the fact. Do you recall any
10 discussions about that?

11 A Yeah, well, when we made partner
12 distributions, it would be distributed to MJ as a
13 partner, and MJ -- and then MJ turned over 90 percent
14 of that to Clay.

15 Q Do you know why?

16 A Services rendered.

17 Q Related to what?

18 A The operation of the -- the partners
19 company.

20 Q Operation of LN?

21 A No, operation of MJC whatever it was.

22 Q Okay. MJCX Professional Services?

23 A Yeah, professional services. Yeah.

24 Q What role, if you know, did Clay Ellis have
25 in that company?

1 A I don't know.

2 Q But regardless, from the partner
3 distributions out of LN, it went to MJCX Professional
4 Services, and then 90 percent of that amount went to
5 Clay Ellis, as you understood it?

6 A Yes.

7 Q But you don't know what the relationship was
8 specifically?

9 A No. No, I don't know specifically.

10 Q Let me hand you Exhibit Number 14. These
11 are screenshots of text messages between you and Clay
12 Ellis. Did you search for text messages like this
13 prior to today?

14 (Exhibit 14 was marked for
15 identification.)

16 A I -- I did while I was sitting here. Prior
17 to today, no.

18 Q Did you and Clay Ellis routinely text
19 related to LN business?

20 A Yes.

21 Q I mean, because we see it here on the first
22 page. We have the texts from December 2017.

23 A Which side is me and which side -- are these
24 the green Clay or the green me?

25 Q I believe the green is you.

1 A Okay.

2 Q And it looks like this span of text messages
3 go all the way through last page of October 2018. I'm
4 going to correct it, I think. I just made a mistake.
5 Let me correct something, Mr. Palmer. The green, I
6 believe, is Mr. Ellis. The black, I believe, in the
7 text message thread is you.

8 A Okay.

9 Q We have text messages, you'll see on the
10 first page, from December of 2017 and then it goes
11 through, on the last page, October 4th of 2018. Do
12 you see that?

13 A I don't -- oh, yeah. Yeah. I see the
14 dates. Go ahead. Yeah. That's correct.

15 Q And as of October 4th of 2018, I'm guessing
16 based on these text messages, you were still employed
17 by LN?

18 A Correct.

19 Q Are there any text messages that were
20 exchanged between you and Mr. Ellis after October 4th
21 of 2018?

22 A No. Not -- not to my knowledge.

23 Q Would you say that you and Mr. Ellis, during
24 your employment, texted on a daily basis?

25 A Wasn't necessarily daily, but as -- as

1 necessary.

2 Q Could you give me any sort of frequency with
3 respect to your texts back and forth?

4 A Not really. No, it -- there wasn't -- it
5 wasn't a daily thing by any stretch.

6 Q Why are there no text messages between you
7 and Mr. Ellis after October the 4th of 2018?

8 A Well, I left there shortly -- that's about
9 the time I was terminated.

10 Q And so phone records wouldn't show any text
11 messages between you and Mr. Ellis after October the
12 4th of 2018?

13 A Mine do not.

14 MR. CHESTER: No Merry Christmas? No
15 nothing?

16 THE WITNESS: Nothing. No.

17 MR. CHESTER: What number was that?

18 THE WITNESS: 14.

19 MR. MILLER: 14.

20 BY MR. MILLER:

21 Q Were you a part of any board meetings for LN
22 during your tenure as an employee that you recall?

23 A We had a partners meeting at a restaurant.
24 That's the only one I can really thing of. So one.
25 Yes.

1 Q Were you a partner?

2 A No. No.

3 Q As far as you know, were there records kept
4 related to meetings and the like with respect to LN?

5 A No, I -- I don't think there would be.

6 Q Do you know anything about Diagnostic
7 Gestalt's departure as a partner from LN?

8 A No.

9 MR. MILLER: All right. You're going
10 to love and hate this at the same time. For the
11 purposes of today, I'm done for now. I'll pass the
12 witness, reserving the right, if we get additional
13 documents, to ask you further questions. I did just
14 get a message that Zoom logged off. So I'll pass the
15 witness, but we may need to get that fixed.

16 THE WITNESS: An unknown error
17 occurred.

18 MR. CHESTER: I'm going to hit join
19 from browser and see what happens.

20 THE VIDEOGRAPHER: Is it still plugged
21 into the wall?

22 THE REPORTER: Yes.

23 THE VIDEOGRAPHER: Okay. Thank you.

24 MR. MILLER: And the power's showing.

25 THE WITNESS: It's saying joining

1 meeting. Enter the meeting passcode and --

2 MR. CHESTER: Let's spin it and see
3 what happens here.

4 MR. MILLER: There we go.

5 THE WITNESS: It's back.

6 THE VIDEOGRAPHER: Okay.

7 MR. CHESTER: I don't see anybody else,
8 but it doesn't matter.

9 THE VIDEOGRAPHER: They all logged off
10 maybe.

11 THE REPORTER: They probably got kicked
12 out.

13 MR. MILLER: Probably got kicked out.
14 I mean --

15 MR. HOBBS: Should we go off the record
16 now?

17 THE VIDEOGRAPHER: Oh, we're still on
18 the record. I didn't even realize that. Thank you.

19 MR. CHESTER: Yeah. You may have to do
20 this, get us --

21 THE VIDEOGRAPHER: You want me to go
22 off the record?

23 MR. CHESTER: Yeah, let's go off the
24 record.

25 THE VIDEOGRAPHER: The time is 3:57 and

1 we are now off the record.

2 (Off the record.)

3 THE VIDEOGRAPHER: We're back on the
4 record. The time is 4:01.

5 EXAMINATION

6 BY MR. CHESTER:

7 Q Mr. Palmer, I just have a few follow-up
8 questions. And I expect there might be some further
9 proceedings regarding the circumstances surrounding
10 your declaration, Exhibit 5. And so I just want to
11 make sure I have a very clear record on this. If you
12 think back to this morning when I first got started,
13 you first told me that the first page or page and a
14 half was your words and the rest were not. Remember
15 that?

16 A Well, bits and pieces of -- of each -- yeah,
17 of each paragraph. And yeah. Yes.

18 Q Right. But then when we started going
19 through it, it turns out that basically other than
20 your age and the circumstances of working at LN, that
21 almost none of it was your words, especially about the
22 fraud and the false accounting; right?

23 A The fraud --

24 MR. MILLER: Objection to form.
25 Leading.

1 BY MR. CHESTER:

2 Q Okay.

3 A No, the fraud and the skimming.

4 Q Yeah. None of that's accurate; right?

5 MR. MILLER: Objection.

6 THE WITNESS: Correct.

7 BY MR. CHESTER:

8 Q Okay. But then when Mr. Miller was asking
9 you, he brought up again at first that maybe the first
10 page, page and a half was correct, but I just want you
11 to say on the record that the testimony you gave me
12 this morning when we went through paragraph by
13 paragraph was accurate. You stand by that?

14 A Yes. I'll have to read the final
15 transcript, but yes.

16 Q Sure. Sure. Good idea. Now let's look at
17 the draft. Hold 5 out to the side. And let's look at
18 the draft, which would probably be either 4 or 6.

19 A All right. Let's see. Here's 6.

20 MR. HOBBS: 8 or 9.

21 MR. CHESTER: 8 or 9. Thank you.

22 THE WITNESS: Is this it?

23 BY MR. CHESTER:

24 Q Let's look at 8.

25 A Good grief. Okay.

1 Q Okay. So set that there and that there.
2 Now looking at 8, this is the one that Kelly Dawson
3 sent you on September 2nd; right?

4 A Correct.

5 Q And then Exhibit 5 is the final one that you
6 signed; right?

7 A Correct.

8 Q Okay. Have you compared the two to see any
9 differences?

10 A No.

11 Q Okay. Let me show you a couple.

12 A All right.

13 Q If you look at Exhibit 8, in the third
14 paragraph, he says that "Michael John Cortez acted as
15 Clay Ellis's straw man." Do you see that?

16 A I do.

17 Q Is that a word that you would've used?

18 A No.

19 Q Okay. You didn't come up with that word;
20 right?

21 A No.

22 Q Okay. And then --

23 A I'm not -- I'm not even sure what it means.

24 Q Okay. Just don't light a match around it is
25 all I know. And then when you look at the final

1 version that he sent you couple days later, Exhibit 5,
2 he doesn't use the word straw man. He says, "MJ
3 Cortez acted as Clay Ellis's co-conspirator." Do you
4 see that?

5 A I do.

6 Q And he misspelled co-conspirator, but, you
7 know, that's Mr. Dawson.

8 MR. MILLER: Objection.

9 BY MR. CHESTER:

10 Q Now is co-conspirator a word that you
11 would've used?

12 A No.

13 Q Okay. And did you have any input with
14 Mr. Dawson or whatever other lawyers he was working
15 with to come up with this declaration in changing
16 Exhibit 8 into Exhibit 5? For example, changing straw
17 man to co-conspirator?

18 A No.

19 Q That was all done by the lawyers; right?

20 A Correct.

21 MR. MILLER: Objection. Leading.

22 BY MR. CHESTER:

23 Q Was that all done by the lawyers?

24 A Yes.

25 Q Okay. Now I want to look at the last email

1 that you sent Mr. Dawson just two weeks ago. Can you
2 find that one for me?

3 A I'll give it a shot. I know it's going to
4 be on the bottom.

5 Q It's Exhibit 10.

6 A 10. Yay. We scored.

7 Q Always on the bottom.

8 A Okay. I have it.

9 Q Okay. Now just to recap, Exhibit 10 is an
10 email you sent to Kelly Dawson on February 21st of
11 this year, about two weeks ago; right?

12 A Correct.

13 Q Okay. And it was from you to Kelly Dawson.
14 Nobody was copied; right?

15 A Correct.

16 Q But do you see at the top where it says,
17 "John Markham"?

18 A Okay.

19 Q Okay. I'm going to represent to you that it
20 probably says that because Mr. Markham produced this
21 document to me. And this number down here indicates a
22 Plaintiff's Bates number, which is further indication
23 that Mr. Markham, on behalf of the plaintiffs in this
24 case, produced this document to me. Okay. Will you
25 accept that from me?

1 A Okay.

2 Q All right. Now since February 21st, did you
3 send this document to Mr. Markham?

4 A No.

5 Q Okay. So the only people that had it were
6 you and Kelly Dawson; right?

7 A Correct.

8 Q So can we safely assume that Mr. Dawson has
9 been in recent contact with Mr. Markham about the
10 subject of your declaration?

11 MR. MILLER: Objection. Form.

12 THE WITNESS: Yes.

13 BY MR. CHESTER:

14 Q Okay. Now let's talk about who talked to
15 who and who was going to pay who. First of all, you
16 and I have never met before today; right?

17 A Correct.

18 Q Never talked on the phone; right?

19 A Right.

20 Q Never texted, emailed, nothing; right?

21 A Yup.

22 MR. MILLER: Leading.

23 BY MR. CHESTER:

24 Q Okay. Now Mr. Hobbs first contacted you
25 back in August the first time you got subpoenaed. Do

1 you remember that?

2 MR. MILLER: Objection.

3 THE WITNESS: Yes. Yes. I do.

4 BY MR. CHESTER:

5 Q Okay. And didn't you ask him at that time
6 to send you a copy of the declaration?

7 A Yes, and he did.

8 Q And he did. Okay. And then Mr. Hobbs
9 called you yesterday to make sure you were going to
10 show up; right?

11 A Correct.

12 MR. MILLER: Objection. Leading.

13 BY MR. CHESTER:

14 Q Okay. Other than that, have you and
15 Mr. Hobbs had any conversations?

16 A I don't think so.

17 Q Okay. And neither me nor Mr. Hobbs has ever
18 offered to pay you. Have we?

19 MR. MILLER: Objection. Leading.

20 THE WITNESS: No. And somebody -- one
21 of these attorneys said I could get reimbursed for
22 time spent. But I couldn't -- like I say, I didn't
23 even -- I didn't save his number, you know, as a
24 contact or any -- yeah.

25 //

1 BY MR. CHESTER:

2 Q Okay. Was it John Markham?

3 A I don't know.

4 Q Okay. What about Mark Comer [ph]? Was it
5 Mark Comer [ph]?

6 A That name doesn't ring a bell.

7 Q Have you ever spoken to Mark Comer [ph]?

8 A I don't think so.

9 Q Okay. But it had to have been one of the
10 lawyers in this litigation; right?

11 A I guess. I mean, yeah.

12 MR. CHESTER: All right. I'll pass the
13 witness.

14 MR. HOBBS: I don't have any questions.
15 No more further.

16 EXAMINATION

17 BY MR. MILLER:

18 Q Clarification question, Mr. Palmer. When
19 did you testify you either got an email or some sort
20 of contact from Mr. Hobbs about getting a copy of your
21 declaration? Was it June, did I hear you say, or did
22 I mishear that?

23 A It'll be -- I don't -- I don't remember
24 exactly when it was.

25 Q Okay. The reason I'm asking is because you

1 answered some questions from Mr. Chester about sending
2 or getting an email from Mr. Hobbs related to your
3 declaration. Do you recall that line of questioning?

4 A Not exactly.

5 Q And the reason I'm asking that is because I
6 believe you previously testified the first time you
7 knew you signed something that was untrue was February
8 the 1st of 2024 when you received the subpoena.

9 A Right. Right. Correct.

10 Q So did you ever get an email from Mr. Hobbs
11 or send an email to Mr. Hobbs related to your
12 declaration back in June, July, or August of last
13 year?

14 A I got one from him that had the declaration
15 attached to the back.

16 Q Okay. So did you know as of that time,
17 June, July, or August of 2023, that you had sworn
18 under oath to something that was untrue?

19 A No, I didn't know. I -- I got that and
20 it's: "Okay, I've got a new date. Okay. Good."
21 Yeah.

22 Q So your testimony to the jury is, you didn't
23 read what was attached to the email that was signed by
24 you at that time?

25 A Correct.

1 MR. MILLER: No further questions.

2 THE WITNESS: Okay.

3 MR. CHESTER: None here.

4 THE REPORTER: Mr. Palmer, would you
5 like to read and -- read and sign, sir?

6 THE WITNESS: Read it now, 160 pages?

7 THE REPORTER: No. No, not read and
8 sign.

9 MR. CHESTER: No. After she types it
10 up.

11 THE REPORTER: Would you like to read
12 it --

13 MR. CHESTER: She'll send it to you.

14 THE WITNESS: Oh, yeah. Yeah.

15 THE REPORTER: Yes.

16 THE WITNESS: I don't want to read it
17 right now.

18 THE REPORTER: Yes. Okay. And would
19 anyone like a copy of the transcript?

20 MR. CHESTER: Yes, I would.

21 MR. MILLER: Same.

22 THE REPORTER: That's mister --

23 MR. HOBBS: Same here, please.

24 THE REPORTER: Got you.

25 THE VIDEOGRAPHER: That concludes the

1 deposition. The time is 4:12 p.m. and we are now off
2 the record.

3 (Signature reserved.)

4 (Whereupon, at 4:12 p.m., the
5 proceeding was concluded.)

1 CERTIFICATE OF DEPOSITION OFFICER

2 I, CYNTHIA P. SMITH, the officer before whom
3 the foregoing proceedings were taken, do hereby
4 certify that any witness(es) in the foregoing
5 proceedings, prior to testifying, were duly sworn;
6 that the proceedings were recorded by me and
7 thereafter reduced to typewriting by a qualified
8 transcriptionist; that said digital audio recording of
9 said proceedings are a true and accurate record to the
10 best of my knowledge, skills, and ability; that I am
11 neither counsel for, related to, nor employed by any
12 of the parties to the action in which this was taken;
13 and, further, that I am not a relative or employee of
14 any counsel or attorney employed by the parties
15 hereto, nor financially or otherwise interested in the
16 outcome of this action.



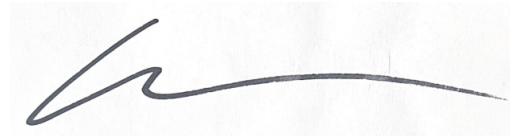
17 CYNTHIA P. SMITH

18 Notary Public in and for the
19 State of Texas
20

21 ☒ Review of the transcript was requested.
22
23
24
25

1 CERTIFICATE OF TRANSCRIBER

2 I, RONALD MOORE, do hereby certify that this
3 transcript was prepared from the digital audio
4 recording of the foregoing proceeding, that said
5 transcript is a true and accurate record of the
6 proceedings to the best of my knowledge, skills, and
7 ability; that I am neither counsel for, related to,
8 nor employed by any of the parties to the action in
9 which this was taken; and, further, that I am not a
10 relative or employee of any counsel or attorney
11 employed by the parties hereto, nor financially or
12 otherwise interested in the outcome of this action.

13
14 

15 RONALD MOORE
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1 Toth Enterprises II, P.A., Et Al v Forage, Jean-Paul, Et Al
2 Lawrence D. Palmer Job No. 6496801
3 E R R A T A S H E E T
4 PAGE_____ LINE_____ CHANGE_____
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22 _____
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24 Lawrence D. Palmer Date
25

1 Toth Enterprises II, P.A., Et Al v Forage, Jean-Paul, Et Al
2 Lawrence D. Palmer 6496801

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Lawrence D. Palmer, do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

10
11 _____
12 Lawrence D. Palmer

_____ Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 _____ DAY OF _____, 20____.

16
17
18 _____
19 NOTARY PUBLIC

lp.accounting@hotmail.com

March 11, 2024

Toth Enterprises II, P.A., Et Al v Forage, Jean-Paul, Et Al
DEPOSITION OF: Lawrence D. Palmer 6496801

The above-referenced witness transcript is
available for read and sign.

Within the applicable timeframe, the witness
should read the testimony to verify its accuracy. If
there are any changes, the witness should note those
on the attached Errata Sheet.

The witness should sign and notarize the
attached Errata pages and return to Veritext at
errata-tx@veritext.com.

According to applicable rules or agreements, if
the witness fails to do so within the time allotted,
a certified copy of the transcript may be used as if
signed.

Yours,

Veritext Legal Solutions

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&	11 6:21 73:5,6 227:2 1111 4:9 11:22 68:20 11:37 68:24 11th 59:8 12 6:22 180:4,5 180:24 181:4 120 192:3 12705 134:1 12:02 90:14 12:03 90:18 13 6:23 186:16 186:25 187:5 188:10,20 196:20,23 199:25 13581 87:20 13th 73:11 14 6:24 73:11 207:10,14 209:18,19 1501 3:12 16 16:22 122:13 148:13 160 221:6 17 148:13 18 6:11 148:14 180 6:22 187 6:23 19 6:12 1985 14:24 1:11 144:16 1:23 1:16	1s 19:19,23 20:3,18 24:7 1st 176:3,11,24 178:8 220:8 2 2 6:12 18:25 19:2 29:12,24 39:22 40:4 45:2 84:1,20 84:23 85:14 136:10 187:24 188:2,3,4,5 199:19,24 203:8 2'ed 36:13 2,873.45. 189:24 190:21 20 87:5 122:6,7 122:8,8,9 153:1,1 177:2 192:2 197:13 197:14 226:15 2015 16:22 86:1 88:4 132:24 2016 17:16 18:6 84:1 122:10,12 2017 17:16 19:1 84:2 122:11 160:20 207:22 208:10 2018 16:22,24 21:22 23:3 25:1 77:11	84:12 86:2 88:12 98:25 122:18 123:1 125:2 126:1 127:2,25 128:5 128:16 134:5 138:20 140:13 197:5 208:3,11 208:15,21 209:7,12 2019 21:25 22:5,10 24:14 127:21 160:13 160:18 2021 153:19 154:11 157:19 158:21 159:15 178:12 2022 34:25 61:12,17 152:15 153:20 156:21,21 157:3 160:10 167:12 170:25 171:14 172:21 173:14 174:3 174:15,20 175:8 179:2,4 2023 73:11 220:17 2024 2:3 7:3 176:4,12,24 177:14,17,24 178:8 220:8 227:2
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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

EXHIBIT

5

CAUSE NO. D-1-GN-20-003463

TOTH ENTERPRISES II, P.A., AND
WILLIAM FRANKLIN, M.D.,
Plaintiffs,

IN THE DISTRICT COURT

201ST JUDICIAL DISTRICT

v.

CLAY ELLIS
Defendant

TRAVIS COUNTY, TEXAS

UNSWORN DECLARATION OF LARRY PALMER

THE STATE OF TEXAS
COUNTRY OF TRAVIS

§
§

"My name is Larry Palmer. I am over the age of 21 years old, I am of sound mind, I am capable of making this Declaration, and I do so freely. I have personal knowledge of the facts contained herein, I attest that the statements herein are true accurate and correct.

I am a professional accountant, in Travis County, Austin, Texas. In or around mid-2015, I was hired by Clay Ellis to work as the accountant for LN Professional Management LLC., d/b/a Medical Management Professionals—"LN"), Allied Lab Solutions Management LLC., and Allied Lab Solutions LLC. I continued working with these companies until mid-2018. These were different legal entities all of which were Clay Ellis was the purported owner and directed all day-to-day operations.

Although Clay Ellis directed every day-to-day operation, was in-charge of all financial accounts, was in-charge of all hiring and firing, I found out later, Clay Ellis, did not have his name on the various companies he owned, aside from Allied Lab Solutions Management LLC., and Allied Lab Solutions LLC. His longtime friend, Michael John Cortez-a/k/a MJ Cortez, acted as Clay Ellis's con-conspirator to further Clay Ellis' scheme to defraud the Allied company shareholders. This was done namely by Clay Ellis paying MJ Cortez 10% of MMP revenue to remain silent about fraudulent accounting for the funds that would flow down stream from MMP.

My duties included all accounting operations, which included receiving funds from the medical facilities that were clients of Medical Management Professionals LLC. As it was set up, clients would pay Medical Management Professionals LLC, then Medical Management Professionals LLC, would pay LN Professional Management LLC., then LN Professional Management LLC., would make payment to Allied Lab Solutions Management LLC., and Allied Lab Solutions LLC. At the time of the initial payment, Clay Ellis changed how the money was to be distributed. Instead of the funds being sent to LN Professional Management LLC, he directed that 10% of the money

off the top was to be sent to MJ Cortez, another employee at MMP. MJ Cortez did not have authority to hire, fire, manage, or direct me in my role as accountant, nor was he a principal of MMP. However, even lacking any meaningful role, Clay Ellis directed that MJ Cortez's 10% be skimmed off the top for his participation in the Ellis scheme.

Clay Ellis then directed the balance of those funds, minus MJ Cortez's 10%, to be paid to LN Professional Management LLC. The agreement with LN Professional Management LLC, and the Allied Companies was that LN Professional Management LLC, was to receive 55% of the revenue, and the rest payable between the Allied companies. With the 10% directed by Clay Ellis to be paid to MJ Cortez, the net to LN Professional Management was less than that to which it was entitled and consequently, the net received by Allied Lab Solutions members was also reduced.

For various justifications that Clay Ellis would manufacture, it was common that Clay Ellis would skim off the top from funds that belonged to the Allied Companies. Clay Ellis would direct funds above the 55% LN Professionals was entitled to, to be paid to Clay Ellis personally, or Clay Ellis' LLC in Colorado, or one of Clay Ellis' other Texas LLC's, and Lewis Nichols for his role as co-conspirator of LN Professionals LLC. Clay Ellis would tell me to write the checks and because he appeared to have the right to hire, fire, and direct me, complied with his directions.

Any amounts LN Professionals LLC ever paid to any party were at the sole direction of Clay Ellis. While Clay Ellis was not legally an owner of LN Professional Management LLC, and Medical Management Professionals LLC, he directed every operational aspect thereto as though he were the sole owner. As time went on, I became increasingly aware that the accounting Clay Ellis was directing me to do was not legal and looked like there was fraud being committed against the shareholders of the Allied company shareholders.

It was routine for Clay Ellis to manufacture fraudulent settlement statements which did not reflect the actual amounts received by MMP. By increasing the monies paid to him, and then providing false or inaccurate settlement statements, Clay Ellis was written checks in excess of the amounts reflected on the statements. This resulted in him taking more money than he was allowed from the Allied company shareholders. The funds that LN Professionals LLC received from their clients would vary, but the numbers were substantial. For most months, the revenue that was received and later skimmed and stolen was well over several hundred thousand dollars a month. There were millions of dollars that were received from various hospital clients. There was always a sizeable amount skimmed and taken by Clay Ellis for himself and directed to his personal companies. These payments were taken off the top, before any split to LN Professionals and Allied Lab Solutions, and then to the members of Allied Lab Solutions. The funds that were skimmed or stolen from the Allied company shareholders would be distributed to Clay Ellis and Lewis Nichols, with MJ Cortez already receiving his 10% money off the top.

As part of my duties as the accountant for MMP, I was aware of the employees and employee compensation. The payments that I am referring to for Clay Ellis which were taken off the top, were not paid to him as an employee, as they were not rerated as employee compensation.

Clay Ellis made all decisions as though he owned LN Professional Management LLC, and Medical Management LLC, and he was compensated at the exact same rate at the legal owner of LN Professional Management LLC, Lewis Nichols. At the same time Clay Ellis was not the legal owner of LN Professional Management LLC, and Medical Management LLC, he held him self

out to all parties he was in-fact the owner of these companies. This would have all believing Clay Ellis was the owner of these two companies and they could reasonably rely on his directions and representations, and reasonably believed him exercising complete and absolute dominion and control of these two companies was derived from his ownership thereof.


Even though Clay Ellis was not properly accounting for funds that should have gone to the Allied Companies' shareholders, he would manufacture statements for me to use to generate payments to the Allied Companies that those at the Allied company shareholders would receive as an accurate and correct reflection of the funds. If Clay Ellis did not manufacture accounting, the Allied companies' shareholders would have received much more revenue than they actually did.

Clay Ellis specifically directed me to write checks to the members of Allied Lab Solutions, including William Franklin, M.D., and Toth II Enterprises, P.A. The amounts to those checks were always the net amounts after the monies off the top that Clay Ellis had directed be paid, including M.J. Cortez, but also himself and on multiple occasions one of his corporations, including one corporation which I understood was located in Colorado.

Clay Ellis always explained away inconsistent and arbitrary accounting. Over time, I found their accounting to be suspect, I feared fraudulent accounting. I challenged Clay Ellis about these inaccuracies. My demand for strict accounting to Clay Ellis was met with fierce rejection and culminated in me leaving that company. I refused to be complicit in these fraudulent accounting schemes, and this unethical and fraudulent. In reality, I was one of the few Clay Ellis was unable to buy silence from.

All this suspicious activity was clearly known by Clay Ellis, Lewis Nichols, and MJ Cortez. It is equally clear that all three were aware of the scheme as they were recipients of the checks directed to be sent them by Clay Ellis. All three were clearly acting on concert as they received checks and payments and the statements reflecting the changing accounting and misstatements of revenue which were then sent to Allied Lab Solutions members. This was all done at the direction of Clay Hill to me specifically and I was told to write the checks as those statements reflected."

Executed on this 6th day of September, 2022, by Larry Palmer, in Travis County, Austin, Texas, United States of America.

By: 
 Larry Palmer
 DECLARANT

Date: 9/6/22

CAUSE NO. D-1-GN-20-003463

TOTH ENTERPRISES II, P.A., AND
 WILLIAM FRANKLIN, M.D.,
Plaintiffs,

§
 §
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IN THE DISTRICT COURT

(END OF DOCUMENT)

John Markham

----- Forwarded message -----

From: **Larry PALMER** <lp.accounting@hotmail.com>

Date: Wed, Feb 21, 2024, 8:48 AM

Subject: original affidavit

To: Kelly Dawson <kcmd777@gmail.com>

I need a copy of the original affidavit I sent you before you made the changes

Larry Palmer
Palmer Tax & Bookkeeping
512.971.2413



From: John Markham <jmarkham@markhamreadzerner.com>
Sent: Friday, January 13, 2023 4:14 PM
To: larp1@ev1.net; Larry Palmer; lpaccounting@hotmail.com
Subject: FW: Draft message to Larry Palmer

Hello, Mr. Palmer:

I am an attorney who, for the last year along with my firm, have been working with Dr. William Franklin, Victory Medical, and certain Allied entities on various legal matters, including several litigated matters. We are about to bring a lawsuit against Clay Ellis and various others for the skimming that they engaged in of monies paid by various rural hospitals in Texas to LN Professional Management ("MMP") which MMP was to pay, in part to Allied and its member investors. As you know, an earlier lawsuit was filed by Mark Collmer, with whom we are also working, but we have now concluded that that lawsuit has a "standing" flaw and so we are filing another one which is much larger and will be filed in federal court.

I have read, and have a copy of, your detailed affidavit previously filed relating to this matter, and based upon your experience as an accountant working with Clay Ellis in the past, it was certainly quite helpful. I am hoping that I can speak with you sometime next week about that affidavit because there is some additional information I would like to obtain from you, and I also wanted to discuss with you that when we file this lawsuit you will at some point be a witness and we want to minimize any inconvenience that causes you.

I imagine that you are busy and so we would be happy to pay for your time. We can meet by telephone or in person, as you like, and I will call you early next week to see if and when this can be arranged.

I look forward to speaking with you at a convenient time.

Regards,

John Markham

